

"Frozen conflicts" in Europe

Bebler, Anton (Ed.)

Veröffentlichungsversion / Published Version

Sammelwerk / collection

Empfohlene Zitierung / Suggested Citation:

Bebler, A. (Ed.). (2015). "Frozen conflicts" in Europe. Opladen: Verlag Barbara Budrich. <https://doi.org/10.3224/84740133>

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Anton Bebler (ed.)

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Opladen • Berlin • Toronto 2015



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(<https://doi.org/10.3224/84740133>). A paperback version is available at a charge.

The page numbers of the open access edition correspond with the paperback edition.

ISBN 978-3-8474-0133-9 (hardcover)

eISBN 978-3-8474-0428-6 (ebook)

DOI 10.3224/84740133

Verlag Barbara Budrich GmbH

Stauffenbergstr. 7. D-51379 Leverkusen Opladen, Germany

86 Delma Drive. Toronto, ON M8W 4P6 Canada

www.barbara-budrich.net

A CIP catalogue record for this book is available from

Die Deutsche Bibliothek (The German Library) (<http://dnb.d-nb.de>)

Jacket illustration by Bettina Lehfeldt, Kleinmachnow, Germany –

www.lehfeldtgraphic.de

Typesetting by Anja Borkam, Jena

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Introduction

Anton Bebler

The structure of international community has over centuries experienced countless changes resulting from state amalgamation and integration and, on the other hand, disintegration and dissolution of large states leading to appearance of smaller state formations. In earlier times the non-recognition of new entities by other states had often had little or no consequence but later became important due to growing interdependence of states. Global politics in the first half of the XXth century had been strongly marked by the breakdown and/or disappearance of several multinational and colonial empires, although their partial contraction in Northern and Southern America started already in the XVIIIth and XIXth centuries.

As their result a number of new states were created in Europe and Asia, on the territories of the disintegrating Austro-Hungarian, Russian, Ottoman and Chinese empires. Some of them proved to be short-lived (Slovak Soviet Republic, Independent state of Fiume, independent republics of Ukraine, Georgia, Armenia, Azerbaijan, et al.) and were absorbed by stronger neighboring states. But some nevertheless survived and obtained international recognition, also from the successor of the former imperial overlord. Such were the cases of the Kingdom of Serbs, Croats and Slovenians (later renamed into Yugoslavia), Czechoslovakia, Finland, Poland, Estonia, Latvia and Lithuania, who subsequently entered the League of Nations. Two former Chinese dependencies formally proclaimed their independence but in fact became protectorates of Soviet Russia and later of the Soviet Union. Mongolia eventually, more than two decades later obtained limited international recognition and almost five decades later was admitted to the United Nations. The former Chinese dependency Tuva has been however never internationally recognized and in 1944 was simply annexed by the Soviet Union and included into the Russian Federation. One year later the Soviet government made a similar attempt in Northern Iran which was since 1941 occupied by Soviet troops. A secessionist Gilan Republic was proclaimed but did not survive the evacuation of the Soviet Army under British-American political pressure.

The next wave of new state creation started in the 1940s under the influence of the Second World War and followed the defeat of Fascist Italy and the destruction of the Third Reich. During the Second World War Iceland separated itself from Denmark. Occupied Germany (1945-1949) and Austria (1945-1955) lost their international status as independent states and under foreign occupation constituted parastates of a special kind. Similarly as in Eastern Asia (China, Korea, Vietnam) the political-ideological polarization

during the “Cold War” caused the division of amputated Germany (and Austria) into occupation zones followed by the much-longer division of Germany into two separate states (FRG, DDR). The “Free Territory of Trieste” (FTT), a parastate officially under UN jurisdiction, formally existed between 1947 and 1954 on the former Austrian territory occupied and annexed by Italy after the First World War. Under the terms of an interstate protocol this parastate was abolished and its territory divided between Italy and Yugoslavia. The Yugoslav zone of earlier military occupation was then subdivided into two parts which today belong to Slovenia and Croatia.

The process of decolonization in Africa, Asia, Oceania, the Caribbean and Mediterranean attained its acme in the second half of the XXth century. Two former British colonies in Mediterranean Europe-Cyprus and Malta became independent. The wave of decolonization brought to well over a hundred the number of new independent states and members of the United Nations. Furthermore in the 1960s to 1980s secessionist and other movements fighting central governments in post-colonial African states (Nigeria, the Congo, Angola, Mozambique, Sudan, Ethiopia) and in Asian multinational states (Myanmar, Indonesia, Sri Lanka) had created new parastates. Many of the internationally unrecognized parastate entities in Asia and Africa were later subdued by the respective central governments at the end of civil wars e.g. in Nigeria, the Congo, Angola, Indonesia et al. Some had however existed for decades with their state symbols, governments, military and police forces. The most recently crushed secessionist parastate had been since 1976 maintained by the movement of “Tamil Tigers” on the territory of Sri Lanka. Only a very few parastates have succeeded in defending their independence and were subsequently internationally recognized and admitted to the UN (Eritrea and East Timor). The last former parastate to achieve its independence and international recognition was Southern Sudan in 2011.

Internal tensions and conflicts closely related to ethnic, national, linguistic, cultural and religious divides have been experienced by many other contemporary states. In the Euro-Atlantic area alone the geography of trouble spots has spanned from Canada, Great Britain, Ireland, Denmark, Spain, Belgium and France to Slovakia, Romania, Bosnia and Herzegovina, Serbia, Macedonia, Ukraine and the Russian Federation, extending further to the Caucasus, the Near East and further from Palestine, Syria, Lebanon and Iraq all the way to Afghanistan, Pakistan, India, Myanmar, Indonesia, Philippines and China. Thus the potential for state transformation and fragmentation into new entities is still present today on, at least, four continents.

The wave of liberal democratization in the 1990s brought down most East European authoritarian communist regimes. In this process several European states vanished altogether from the political map (GDR, SFRY, USSR and ČSSR) and over two dozen new entities appeared on the territories of the latter three. Among the newly-born states in Europe all former Soviet, Yugo-

slav and Czechoslovak full-fledged republics have retained or achieved, some very soon, wide international recognition, membership in the UN and subsequently in other international organizations. However the disintegration of two “socialist federations” SFR Yugoslavia and USSR created also several parastates within the territories of three Yugoslav republics and of four Soviet republics. Of the four “Yugoslav” parastates two were crushed or formally disbanded (“Republic of Serbian Kraina” in Croatia and “Herzegovina” in Bosnia & Herzegovina), one survived and achieved considerable but not universal international recognition (Kosovo). One secessionist parastate (*Republika Srpska*) survived in name but as an “entity” (unit) within federal Bosnia & Herzegovina and not as an independent state. In the post-Soviet space there have been five cases of secession within full-fledged republics – one unsuccessful (Chechnya in the Russian Federation, brutally suppressed by the Russian military and security forces) and four, so far, successful ones (Transnistria in Moldova, Abkhazia and Southern Ossetia in Georgia, Nagorny Karabakh in Azerbaijan and most recently Crimea in Ukraine).

There is a number of academic books dealing with each of the secessions enumerated above, which are being used mainly by researchers and area experts. This volume is devoted to informing the general public about several flashpoints of tensions and occasional violence which resulted in the last four decades from conflicts within and disintegration of states in or close to Europe. They are all located in South Eastern Europe, in the Eastern Mediterranean and in the Transcaucasia. In the mass media parlance and also in the academic literature of international relations the earlier ones were branded the “frozen conflicts”. The chief reason for this designation was the fact that the violent stage in each of these conflicts ended in a stalemate and without a peace treaty.

The adjective “frozen” as applied to these cases has been substantively of questionable validity for, at least, two reasons. Firstly, several of them have been, also recently, quite hot being accompanied by armed violence, including mini wars which caused a considerable loss of human life and destruction. Secondly, their duration has been, historically short when compared to some other conflicts in Europe, in Europe’s vicinity or to those created by European powers on three other continents and in the Atlantic.

The much longer lasting and still unresolved interstate conflict on the edge of European continent has been between two members of the European Union and the NATO. Gibraltar, a British Overseas Territory with a territory of 6.8 square kilometres and a population of about 30.000 inhabitants, has remained a bone of contention since its occupation by the British in 1704. Nine years later, in 1713 under the terms of the Treaty of Utrecht it was ceded by Spain to Great Britain “in perpetuity”. Nevertheless many successive Spanish governments, including the present one, have tried various kinds of diplomatic and non-diplomatic pressures – land blockades, prevention or disruptions

of vehicular and other road traffic, harassment of tourists and the Gibraltarians, intimidation by low jet overflights etc.). The objective has been to achieve the termination of British sovereignty and of the Gibraltarians' self-rule. The key Spanish argument has been that the British enclave has "disrupted the unity and territorial integrity of Spain". The same argument could be however used by Spain also against neighbouring Portugal who seceded and declared its independence from Spain in the XVIIth century. On the other hand, a similar argument could be advanced also by Morocco against Spain itself concerning the Spanish colonial possessions in the form of two enclaves on the Moroccan coast – Ceuta and Melilla. In the 1969 Constitution of Gibraltar Great Britain pledged to "never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes" and the Gibraltarians in a referendum of 1967 and again in 2012 overwhelmingly rejected proposals for restoring Spanish sovereignty. So, the three hundred years-old Spanish-British dispute certainly much more deserves the distinction of a champion among the protracted conflicts in Europe than the so-called frozen conflicts in South-Eastern Europe and in the Transcaucasia. Also elsewhere on the European continent and in adjacent waters there remains a number of old dormant conflicts or half-concealed territorial claims which might in the future escalate into more serious conflicts between European states.

The label "frozen conflict" has become fashionable since 1991 and mostly applied to several developments in the post-Soviet space. Two cases outside this area (Cyprus and Kosovo) have been also treated as part of the same group because of their considerable structural similarity with the ex-Soviet ones. In all six cases sharp intrastate conflicts within multinational states had occurred and culminated in armed violence along the lines separating ethnic, national, cultural and linguistic communities. The immediate causes of escalation which led to armed violence had ranged widely between actual or feared subordinated status, discrimination and domination by the majority national group, to political disenfranchising of the minority group, grave violations of human rights and harsh police repression. The relevant European experience since 1970s has indicated that the fragmentation of a larger state and the secession of its part has been more likely to occur where the minority population is relatively numerous, spatially concentrated, culturally and religiously substantially different from the majority nation and hence cannot be easily culturally and politically absorbed and assimilated. If actively opposed by the central government an attempt of separation could not be successful without an overt or covert external military support and/or intervention by a militarily stronger state(s) or by an international organization.

There have been, of course, considerable differences among the above-mentioned "frozen conflicts". In two cases (Cyprus and Moldova) armed

violence started in a unitary state while in the remaining cases it happened in states with elements of federalism in the form of autonomies. Of these four cases two autonomies were named after the titular nation (Abkhazia, Southern Ossetia). The other two autonomous provinces bore old geographic names (Nagorny Karabakh, Kosovo, Crimea). In the five autonomous provinces a national minority of the larger state constituted a strong provincial majority. The admittedly limited sample of seven clearly ethnically marked internal conflicts does not support the thesis that ethnofederal systems as such “dig their own grave”. It seems that ethnofederalism decreases neither the probability of sharp intercommunal conflicts nor the level of accompanying violence. The existence or non-existence of ethnofederalism prior to a secession apparently has no impact on arriving subsequently at a peaceful resolution of each conflict.¹ The record shows that secessions in some European states, with or without the evocation of the right to external self-determination, have removed some earlier sources of conflicts between the ethnic communities involved and their elites. On the other hand, secessions as a rule create new problems, tensions and conflicts. Among the seven conflictual pairs Serbia and Kosovo have progressed the most in peacefully managing these problems thus removing, very recently their dispute half-way from the category of “frozen conflicts”.

In all seven cases the outcome of a secession was decisively influenced by outside interference or by outright military intervention. The subsequent external military protection still largely determines the present situation. In all cases the separation was followed by conflictual relations between the secessionist entity and its protector, on one hand, and the truncated larger state, on the other. As a rule the latter refuses to recognize the secessionist entity and endeavours to prevent its recognition by the international community. The secessionist entities have been in various degrees, fully or partly internationally isolated and politically deprived. Together with the two entities outside the post-Soviet space four ex-Soviet cases constitute a small group of six *de facto* existing and formally independent states which lack universal international recognition. None of them is really fully independent. Five of these states have gained recognition from none to only five UN member states. These are Northern Cyprus, Transnistria, Abkhazia, South Ossetia and Nagorny Karabakh. Kosovo has been much more successful in obtaining over 100 recognitions by the UN members but still cannot enter key international organizations, such as the Organization of United Nations. The Autonomous

1 See discussions on problems of ethnofederalism in: Rothchild, Donald, and Roeder Philip (eds.). *Sustainable Peace: Power and Democracy after Civil Wars* (2005). Cornell University Press, Ithaca, NY; Cornell, Svante. *Autonomy as a source of conflict: Caucasian conflicts in theoretical perspective* (2002). In: *World Politics* 54, 2, pp. 254-76; Zürcher, Christopher. *The Post-Soviet Ears: Rebellion, Ethnic conflict, and Nationhood in the Caucasus* (2007). New York University Press, New York.

Republic of Crimea within Ukraine was, unlike the six other cases, renamed into the Republic of Crimea and together with the city of Sevastopol formally admitted as two new federal units into the Russian Federation. As such the Republic of Crimea does not need international recognition as an independent state. However numerous UN members, including three permanent members of the UN Security Council, condemned Crimea's annexation by the Russian Federation and refused to recognize its legitimacy.

All seven conflicts reviewed in this volume involve the application or violation of either of the two fundamental principles of international law explicitly acknowledged in the UN Charter. These are the principle of self-determination of peoples and the principle of territorial integrity of states. The principle of external self-determination was first applied in the process of decolonisation of Latin America and Africa *i.a.* in order to prevent and resolve potential border disputes. By virtue of this principle the administrative borders previously drawn by the former colonial powers between the colonies were elevated to the status of international borders at the moment when a respective administrative area declared its independence. Applied to the Soviet Union and the SFR of Yugoslavia the internal demarkation between the full-fledged republics became external frontiers of new states in the sense of international law, but not those between the full-fledged and autonomous republics or autonomous regions.

The "internal" aspect of the right to self-determination, if realized within the framework of a given state does not infringe on the territorial integrity of a state concerned. Outside the colonial context, the right to self-determination has been deemed by most international lawyers to be limited to internal self-determination only, while the right to external self-determination in the form of a secession is still not generally recognized as legitimate. The legitimization of a secession could be however facilitated by preceding gross violations of basic human rights, especially by attempted genocide, by the outbreak of armed conflicts, by policies of despotic governments oppressing minorities, by the exclusion of a minority from the political process etc. In order to be recognized internationally a secession resulting from external self-determination needs to follow appropriate democratic procedures, notably a free and fair referendum on independence, ideally under international supervision. A conditional extraordinary allowance to secede as a last resort in extreme cases is a debatable proposition in international legal scholarship. Most authors opine that such a remedial right or allowance does not form part of the doctrine of international law. Secession thus remains a matter unregulated by international law.

In all cases treated in this volume the problem of international recognition has been politically very relevant, accompanied by considerable humanitarian, economic and many other implications. The Montevideo convention stipulated four minimal preconditions for recognizing statehood of a given new

entity: (1) a defined territory, (2) a permanent population, (3) an effective government and (4) the ability to conduct relations with other states. These objective criteria for determining independent statehood are however very general and their application to concrete cases usually depends on subjective, mostly political appreciation. Especially the “effectiveness” of government is a question of degree. The assessment of statehood in international law and in international politics overlaps, but differs. The political practice of recognition of states, as a rule, starts out from the criteria of international law, but is usually guided by additional considerations. It is very possible that for particular political reasons and motives an entity short of the quality of viable statehood is recognized as an independent state by another state or by a group of states. Territorial entities can thus fall into one of three categories: (1) entities fulfilling the relevant criteria for statehood and universally recognized; (2) state-like entities fulfilling all relevant criteria but which are not universally recognized; and (3) entities lacking viable statehood but nevertheless recognized by one or by more other states. The Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union, decided on 16 December 1991 by the Council of the Foreign Ministers of the European Community, defined the recognition criteria for the entities which emerged from the dissolution of the Soviet Union. The recognition policy of the EU concerned only the constituent states or the highest ranking component units of the dissolving federations. This restrictive position was based on the legal opinion issued by the Arbitration Commission of the Conference on former Yugoslavia established in November 1993 by the European Communities. Chaired by Robert Badinter this commission based its opinion on the legal principle of *uti possidetis* and mechanically applied it also to cases where the legal possession of a contested territory had been maintained by undemocratic means and harsh repression.

This volume grew out of an international conference on “frozen conflicts” in Europe which was held at Lake Bled in Slovenia in August 2012. The conference was organized by the Euro-Atlantic Council of Slovenia and financially supported by the Friedrich Ebert Stiftung of Germany. Due to financial and organizational constraints the paper-givers and other discussants could not analyze all conflicts presented in this volume. In order to provide a more complete picture additional chapters were commissioned. For each of the then six conflicts I searched a reputable expert who would be neither from a seceded entity nor from a larger state which lost its part as a result of the secession. The purpose of this selectivity was to obtain as much as possible the invited authors’ political impartiality. For each chapter on originally six conflicts I endeavored to attract also academic commentators from both sides of the conflict. In most cases it proved to be very difficult. My repeated invitations were either flatly rejected, went unanswered or I simply could not find an academic expert capable of writing a solid commentary in English. In two

cases the comments I received were so badly biased that I had to drop them. In other cases I negotiated with their authors and used my editorial prerogatives to tone down the belligerence. Even though not entirely successful I included several commentaries in order to show to the reader reflections of the still persisting sharp animosity in political and national conflicts reviewed in the volume. The desired design of the chapters devoted to six conflicts was eventually only partly implemented.

In order to compensate for the underachieved and to enrich the informative value of the volume I added to this basic architecture recommendations by the reputable think tank International Crisis Group and a paper on the endeavors of the Organization for Security and Cooperation in Europe in mediating the conflict in Moldova. To the section on the Serbia-Kosovo conflict I added three papers written by an Albanian Kosovar researcher (who was later elected to the Parliamentary Assembly of Kosovo), a Kosovo Serb City Councilman in Kosovska Mitrovica (who was in jail waiting for a trial on a charge of alleged association with killings in spring 1999) and a prominent human rights activist from Serbia proper. Their papers illuminate the complexity of the Kosovo problem and the efforts actively supported by the international community to achieve the normalization of relations between the Republic of Serbia and the Republic of Kosovo/Kosova. The last to be added was my own chapter on the newest Ukrainian-Russian conflict over Crimea which worsened the prospects of resolving other conflicts in the ex-Soviet space.

Participants of the Bled conference proposed a number of recommendations which are still relevant:

- in order to allow the win-win logic prevail, political will of all parties involved is indispensable. All sides should employ exclusively political and diplomatic means and refrain from using violence and coercion.
- the long-term objective of all parties must be reaching a sustainable and mutually acceptable settlement, which will take into account the legitimate interests of the populations involved and promote reconciliation, good neighborly relations, regional security and cooperation.
- there are no instant solutions to “frozen conflicts”. The policy of small steps and confidence-building measures should be patiently applied in order to make irreversible progress towards a long-term solution. No deadlines should be enforced, unless agreed upon by the parties in the conflict.
- at the start of negotiations an agreement on basic ground rules must be reached and respected at all times, including an appropriate and unobtrusive language, the validity of documents and agreements

adopted in the past and a clear agenda for future negotiations. All parties must act in an honest and transparent manner.

- areas of common interest need to be defined and pragmatic cooperation between the sides in the conflict promoted in order to establish and maintain a climate of trust. International organizations could facilitate achieving binding legal solutions between opposing sides and should support only those projects which jointly involve the sides in the conflict in order to facilitate cross-community communication exchange and cooperation at the local level.
- the *status quo* on the ground could be improved by joint border management, by respecting demarcation lines and borders until acceptable long-term solutions are found, by avoiding and preventing incidents and violence, by respecting ceasefires and by demilitarizing the areas of contact in order to (re)build mutual trust.
- sustainable settlements must be based on the principles of international law and should include provisions for a democratic (instead of ethnocratic) electoral system which will protect the legitimate interests of national and religious minorities.
- although all “frozen conflicts” are *sui generis*, some lessons can be learned from success stories, for example, the Polish-German reconciliation and the Good Friday Agreement on Northern Ireland;
- a single set of unambiguous standards for protecting minorities ought to be agreed upon and respected;
- the less than universally recognized states are well-advised to consider and promote informal cooperation with various regional and other international organizations, joining, when possible non-political, professional, technical, environmental etc. international organizations, which in addition to practical advantages to their population, could facilitate the progress towards eventual normalization of their status;
- convincing one’s own community is more important and often more difficult than convincing one’s opponent. Practical people-to-people contacts on the ground and involving civil societies are crucial. This could be facilitated by free travel, cross-border traffic and by participation in various international/regional sports and cultural events;
- reaching an agreement is just the beginning. A lot of strenuous efforts need to be invested in order to buttress and implement an agreed solution, to strengthen the rule of law, provide for sustainable economic development, improve wellbeing, services and equal rights for all citizens. The constructive role of third parties and region-wide support are essential for achieving durable improvements;
- every lasting peace process needs to include reconciliation between the sides in conflict. In order to promote common understanding of

disputed and painful historical events it is advisable to establish truth and reconciliation commissions.

The unresolved conflicts in South-Eastern Europe and in Europe's immediate vicinity have been very relevant to many European and some non-European states. The "frozen conflicts" presented and analyzed in this volume are also of concern to the UN, EU, NATO, OSCE, Council of Europe and other international organizations. The latest conflict over Crimea has magnified their wider political and security implications. These conflicts not only, in various degrees, poison regional security and impede the attainment of the strategic goal shared by key European and Euroatlantic international organizations – a united, free, peaceful, secure and prosperous Europe. The "frozen conflicts" thus well deserve the attention of the international community. I hope that this volume will contribute to better understanding of these trouble spots and stimulate the search for their peaceful resolution.

June 2015

Republic of Cyprus vs. Northern Cyprus

The Cyprus Problem

James Ker-Lindsay

Introduction

For over fifty years, the conflict between Greek and Turkish Cypriots on the small island of Cyprus has been a source of concern in the Eastern Mediterranean. Not only has it repeatedly threatened to bring Greece and Turkey into conflict, and remains an ongoing point of contention between Athens and Ankara, it has also become a major point of discord between the European Union and Turkey. While the roots of the conflict can be traced back hundreds of years, in contemporary terms the problem dates back to when the island became independent in 1960, following 82 years of British colonial rule. The complex constitutional arrangement designed to balance relations between the majority Greek Cypriots and the minority Turkish Cypriots lasted a mere three years. In 1963, fighting broke out and led to the collapse of the bicomunal Cypriot state. Since then, the UN has been at the forefront of efforts to try to forge a settlement between the two communities; a task made all the more difficult after the island was divided following a Turkish military invasion in 1974. However, despite the considerable time and effort spent on trying to find a political solution to the dispute, the Cyprus Problem remains unresolved. This chapter will explore the history of the Cyprus problem before examining the key areas of contention between the two sides. It will show how debates over the structure of a new state, as well as over issues such as property, security and the economy, all serve to complicate efforts to reunite the island. Finally, the chapter will examine the possible opportunities for resolution.

History of the Cyprus Problem

On 16 August 1960, the Republic of Cyprus became an independent state after 82 years of British colonial rule. It had not been an easy process. In 1955, the majority Greek Cypriot population, representing 78 per cent of the island's 550,000 inhabitants at the time, had initiated an armed guerrilla uprising to unite the island with Greece (*enosis*) (see Holland, 1998). Mean-

while, the Turkish Cypriots, who represented 18 per cent of the population,¹ fearing that enosis would leave them as a vulnerable minority in a Greek state, had in turn fought to divide the island between Greece and Turkey (*taksim*). Greece and Turkey, fearful that a serious escalation of fighting in Cyprus could lead to a full scale war between them, decided that the most suitable compromise solution would be to create a wholly new and independent country.

The constitution of the new state gave equal decision-making powers to the two main communities on a range of key issues. For instance, the Greek Cypriot president and the Turkish Cypriot vice-president (elected exclusively by their own communities) held extensive veto rights. At the same time, the Turkish Cypriots were given 30 per cent of all government posts. This included three of the ten ministerial posts, 30 per cent of parliamentary seats, 30 per cent of civil service appointments and 40 per cent of its proposed army. Underpinning this constitutional structure was the Treaty of Guarantee, an international agreement that gave Greece, Turkey and the United Kingdom the duty to protect the 'sovereignty, independence and territorial integrity' of the new Cyprus state (see Macris, 2003). Cyprus was expressly prohibited from joining any other state, either in whole or in part. Despite this prohibition on *enosis* and *taksim*, the two communities were nevertheless permitted to retain close ties with Greece and Turkey. For example, the flags of Greece and Turkey were permitted to fly alongside the flag of the Republic of Cyprus on government buildings during holidays. Greek and Turkish were the two official languages of the Republic of Cyprus. Moreover, under the Treaty of Alliance, both Greece and Turkey were permitted to retain a small military force, 950 and 650 troops respectively, on the island.

Following independence, the widespread hope was that the tensions of the previous years would soon subside. However, disputes soon emerged between the two communities on a range of issues. Key points of contention included the establishment of Greek and Turkish municipalities in the main cities, questions of taxation and the structure of the armed forces. In late 1963, Archbishop Makarios, the Greek Cypriot president proposed a number of constitutional amendments. These were seen by the Turkish Cypriots as an attempt to reduce their powers. They were therefore rejected by the Government of Turkey, acting in its above stated capacity as a guarantor of the Cyprus constitution. This led to tensions between the two communities and, in late-December 1963, fighting broke out in the capital city, Nicosia. In March 1964, the United Nations Security Council authorised the creation of a peacekeeping force for the island (UNFICYP). It also instructed the UN Secretary-General to appoint a mediator to assist the two sides reach a political settlement. (For more on this period see Droussiotis, 2008; James, 2001; and

1 The remaining 4 per cent of the population was made up of three small ethno-religious communities – Maronites, Armenians and Latins (descendants of Catholic Italians).

Ker-Lindsay, 2004). Crucially, the UN Resolution also recognised the Greek Cypriots as representing the legitimate institutions of the Republic of Cyprus; a position that the Turkish Cypriots and Turkey contest to this day.

The formal role of mediator fell into abeyance in 1966. In its place, the UN Mission of Good Offices was established. However, by the early 1970s efforts to reach a settlement between the two communities were increasingly being overshadowed by tensions within in the Greek Cypriot community between those who were willing to accept an independent Cypriot states and a small, hard line minority who still wanted *enosis*. In July 1974, the military government in Greece, which supported union, organised a coup d'état against the Greek Cypriot-controlled government of Cyprus (see Asmussen, 2008; Birand, 1985; and Constandinos, 2009). Fearing that this could lead to Greek annexation of the island, the Turkish Government exercised its rights under the Treaty of Guarantee and invaded Cyprus. A peace conference convened in Geneva failed to secure an agreement and Turkey resumed its offensive in August. By the time another, permanent ceasefire was reached, the Turkish army had managed to capture 36 per cent of the island's territory. The effects of the invasion were catastrophic for the Greek Cypriots. 160,000 people – approximately one third of the Greek Cypriot population – had fled their homes and many of the island's most economically productive areas were now under Turkish occupation. Henceforth, Greek Cypriots were denied access to the areas now under Turkish occupation. Meanwhile, in the months that followed, the Turkish Cypriot communities living in those areas still under the control of the (Greek Cypriot) Government of Cyprus moved to those areas under Turkish Cypriot control. Cyprus was now divided and the two communities lived apart. There was just one single crossing point between the two sides, in the capital.

In the aftermath of the Turkish invasion, the Turkish Cypriots established the 'Turkish Federated State of Northern Cyprus'. This was presented as a prelude for reunification talks based on an eventual federal settlement. In 1977, the leaders of the two sides concluded what would come to be known as the First High Level Agreement. This confirmed that the eventual reunification of the island would be based on a geographic federation made up of two communities and two territories; a model that is known as a bizonal bi-communal federation. This formula was reconfirmed two years later, in 1979, in what is known as the Second High Level Agreement. To this day, the two High Level Agreements, and the creation of a bizonal bi-communal federation, remain at the core of all discussions concerning the settlement of the Cyprus Problem.

Despite these agreements, the Turkish Cypriot leadership, seizing on political instability in Turkey at the time, unilaterally declared independence in 1983. Although Turkey recognised the Turkish Cypriot state, the move was immediately and strongly condemned by the international community. The

UN Security Council passed Resolution 541 (1983), which condemned the declaration of independence and called on all states not to recognise the so-called 'Turkish Republic of Northern Cyprus' (TRNC). Although the UN continued its efforts to broker a comprehensive solution, the Turkish Government and the Turkish Cypriot leadership showed little desire to reach a federal settlement. Instead, they increasingly talked of a confederation. This was unacceptable to the Greek Cypriots, who believed that such a state would soon break apart. This stalemate began to change in 1990, when the Republic of Cyprus applied for EU membership. (For more on the accession process, see Christou, 2004 and Sepos, 2008). In response, Turkey and the Turkish Cypriots were adamant that this could not be allowed to happen as it would give the Greek Cypriots a veto over Turkey's European Union accession path. Therefore, Ankara warned the EU and the Cyprus Government that any steps to integrate Cyprus into the European Union would be matched by Turkey and the TRNC.

However, despite these threats, the EU refused to change its position. It repeatedly insisted that it would not allow Turkey to have a veto over who could and could not become a member. Although there was a clear preference for a united Cyprus in the EU, the member states were adamant that they would accept Cyprus as a member without a solution if necessary. Realising that the EU was committed to Cypriot membership, in late 2001 Rauf Denktash, the Turkish Cypriot leader, proposed new talks.² At first these were clearly designed as a stalling tactic. By engaging in talks, he hoped that the European Union would delay Cypriot accession. However, in November 2002, a new government came to power in Turkey that was determined to join the EU. Realising that if Cyprus joined the EU without a solution the Greek Cypriots would be in a position to block their membership and demand more favourable settlement terms, Ankara therefore put pressure on the Turkish Cypriot leadership to engage more actively in the process. At the same time, the Turkish Cypriot people began to demand political change. Recognising the economic and social benefits EU membership would bring them, tens of thousands of Turkish Cypriots (out of a population of 150,000) took to the streets to demand reunification.³

In April 2003, the EU signed the Treaty of Accession with Cyprus and nine other European states. This was the final confirmation that Cyprus would join the EU the following year. Just days later, the Turkish Cypriot leadership announced that it would ease the heavy restrictions on crossing the line. Henceforth, people from both communities, as well as foreigners, could cross over simply by presenting their ID card or passport. It was also decided that further crossing points should be opened along the dividing line. In January 2004, at the request of the Turkish Government, a last attempt was made

2 'Denktash seeks to bypass UN with direct talks call', *Cyprus Mail*, 10 November 2001.

3 'Turkish Cypriots rally for UN plan', *The Guardian*, 15 January 2003.

to reunify the island before it joined the European Union, on 1 May. After an intensive series of talks in Cyprus and Switzerland, the UN presented the two sides with a comprehensive reunification proposal (the Annan Plan). (For more on the UN reunification process, see Hannay, 2004; Faustmann and Varnava, 2011). In conformity with long standing agreements, it proposed a bizonal, bicommunal federation. In a referendum held on 24 April 2004, the plan was accepted by 65 per cent of the Turkish Cypriot community. However, it was rejected by 76 per cent of Greek Cypriots. Despite this, Cyprus joined the EU the following week. While it still remained divided in real terms, under the terms of accession, and in accordance with international law, the whole island is technically a member of the European Union. At the request of the Cyprus Government, the application of EU law is suspended in those areas that are not under its 'effective control'.

In 2008, the UN restarted talks between the two sides. At first there was considerable optimism that this new process could yield positive results as there was now a new, more moderate political leader on the Greek Cypriot side. However, despite the best efforts of the United Nations, the talks failed to make a breakthrough.⁴ The election of Nicos Anastasiades, the leader of the centre-right Democratic Rally (DISY), and a prominent supporter of the Annan Plan in 2004, to the presidency, in February 2013, once again raised hopes that another initiative could be launched. But this was soon overshadowed by the emergence of a severe economic crisis. This delayed the start of new negotiations until February 2014, when, with the active involvement of the United States, a new process got underway after the two sides agreed a joint statement on the future path of discussions.⁵ Once again, this reiterated that the basis of a solution would be a bizonal bicommunal federation in line with the High Level Agreements.⁶

Current Issues of Contention

In broad terms, one can identify six main areas of contention between the two communities. Three of these – constitutional arrangements, territory and property, security – may be considered to be the main obstructions to an agreement. However, three further areas will have to be addressed: the econo-

4 For accounts of the UN reunification talks since 2008, see the regular reports produced by the United Nations: 'Assessment report of the Secretary-General on the status of the negotiations in Cyprus'. United Nations Security Council Documents *S/2009/610*, 30 November 2009; *S/2010/238*, 11 May 2010; *S/2010/603*, 24 November 2010; *S/2011/112*, 4 March 2011; *S/2011/4908*, 8 August 2011; *S/2012/149*, 12 March 2012;

5 'Greek and Turkish Cypriots to renew peace talks', Associated Press, 8 February 2014.

6 'Joint Declaration', 11 February 2014.

my, settlers and representation in the European Union (for more on these see Ker-Lindsay, 2011).

Constitutional issues

In terms of the constitutional issues, there are in fact a number of specific points of difference. These range from the more conceptual to the overtly practical. At the more conceptual level, disagreement centres on the relationship between bizonality and bicomunality. This has always been a particularly troublesome area for the two communities. For the Greek Cypriots, a bizonal bicomunal federation would be structured around two federal states. One would be predominantly Greek Cypriot. However, it would not be exclusively so. Likewise, the other would probably be predominantly, but not wholly, Turkish Cypriot. Therefore, while the two states may appear to be more or less Greek and Turkish Cypriot, they would not be specifically given a fixed and unchanging ethnic orientation. The Turkish Cypriots take a very different approach. In their view, bizonality and bicomunality are directly linked. As they see it, they cannot have security without having a defined Turkish Cypriot state. Thus, one state will be Greek Cypriot and the other will be Turkish Cypriot.

Additionally, disagreements exist over the way in which the federal states and the central government will interact and work with one another. The Greek Cypriots have traditionally argued the case for a strong central administration that will have authority over as many areas of policy as possible. The only issues that would come under the power of the federal states would be those areas where there is a clear communal interest, such as education. Yet again, the Turkish Cypriot perspective is rather different. They want to ensure that as many competences as possible are handed over to the federated states. Indeed, they would even like to see certain elements of foreign affairs and defence come under the control of the separate federal units, such as the right to establish representative offices abroad and the management of relations with Greek and Turkish troops on the island (an issue that will be discussed a little later on). As already noted, the Greek Cypriots have long opposed any sort of loose federation, let alone confederation. In part this has been because of their fear that this could ultimately lead to the legal disintegration of the state along the lines of the break up of Czechoslovakia. At the same time, many Greek Cypriots have a continuing wish to exert control over a strong central state. But this may now be changing. Prior to his election, Nicos Anastasiades strongly hinted that he was sympathetic to a looser federal model, albeit defined in terms of subsidiarity; devolving power to the most appropriate level.

Finally, there are also a number of questions relating to the institutions of any new state. For example, what would be the structure of the key legislative and executive bodies? Would the parliament have one chamber or two? Would there be a rotating presidency or a presidential council? Also, the structure of the federal judicial system needs to be addressed, including the representation of the two communities in a supreme court.

Property and territory

The second major area of contention centres on the interrelated issues of territory and property. Both sides readily accept that any solution will mean that the area currently under Turkish Cypriot control will have to be reduced from the current 36 per cent of the island. According to most estimates, the amount of land that would be returned is likely to amount to 8-11 per cent of the island's total territory. In other words, the size of the Turkish Cypriot federal state will most probably amount to 26-29 per cent of the island. However, it is understood that it may be even smaller if the Greek Cypriots are willing to cede more political powers to the Turkish Cypriots as a trade off for more land. At the same time, there is the question of which areas will be relinquished by the Turkish Cypriots. Traditionally, the Greek Cypriots have sought the return of the city of Famagusta, on the eastern coast of the island, and the large town of Morphou, in the north east. Regaining control of these areas would allow large numbers of refugees (more accurately, internally displaced persons IDPs) to return to their properties. Indeed, a central aim for the Greek Cypriot leadership will be to ensure that as many refugees as possible will be able to return to their homes, if they so want, and that as many of them as possible will be in Greek Cypriot controlled areas.

Although a territorial readjustment would allow many Greek Cypriots to return to their properties, questions would remain concerning Greek Cypriot properties in areas that would remain under Turkish Cypriot control. This is an extremely contentious issue (Loizides and Antoniadis, 2009; and International Crisis Group, 2010). Whereas the Greek Cypriots have traditionally argued that all displaced persons should have their entire property returned to them, the Turkish Cypriots have tended to call for some form of property exchange. This would allow Turkish Cypriot properties in the south to be swapped for Greek Cypriot properties in the north. Or, at least, swap those properties where the original Turkish Cypriot owner had no desire to return and live in the south. Some form of compensation could then make up the difference. Needless to say, both ideas have their flaws and are considered to be unacceptable by the other side. For instance, the Turkish Cypriots argue that if they returned all Greek Cypriot property to its original owners it would be impossible to create a viable Turkish Cypriot federal unit. If all the Greek

Cypriots who had property in the north were to return, they could well outnumber the Turkish Cypriots. For their part, the Greek Cypriots argue that any measure that limits the right of people to return to their land is a fundamental infringement of their human rights. The Greek Cypriot position is that the vast majority, if not all, Greek Cypriots must be given the explicit right to return to their homes if they so wish. In reality, it should be noted that the property issue is increasingly being resolved by other means. Most notably, there is now a mechanism for dealing with the property claims of displaced Greek Cypriots. Importantly, this rarely results in restitution. More often than not, the Turkish Cypriot body responsible for handling such claims, which has been recognised as legitimate by the European Court of Human Rights (ECHR),⁷ has offered compensation instead. With the financial crisis, it appears that increasing numbers of Greek Cypriots are now taking this route.⁸

Security

The third key area is security. This is a crucial issue for both communities (see Ker-Lindsay, 2008). The Greek Cypriots are adamantly opposed to the continuation of the Treaty of Guarantee, which gives Greece, Turkey and the United Kingdom a right to intervene in the internal affairs of the island. As they see it, it is wholly unacceptable that the constitutional structure of the Cypriot state should be subject to the guarantee of any third countries, let alone that these states also have a right to intervene militarily. Such an idea is contrary to the very principles of state sovereignty and has no place in the twenty-first century, especially as they relate to a state that is a member of the European Union. Indeed, in February 2010, the House of Representatives passed a Resolution stressing that the Treaty of Guarantee had no place in a settlement.⁹ At the same time, they would like to scrap the Treaty of Alliance, which permits Greece and Turkey to station a certain number of troops on the island. A permanent garrison of Turkish troops on the island, especially when linked with a right of intervention, represents a fundamental threat to the security and stability of the Cypriot state. All Turkish troops must therefore be removed. As one would expect, the Turkish Cypriots and Turkey take a very different view. As far as they are concerned there can be no changes to the Treaty of Guarantee. Indeed, just days after the Greek Cypriot resolution, Turkish Cypriot parliamentarians passed a resolution noting that the Treaty is an integral part of any solution.¹⁰ The Turkish Cypriots argue that past expe-

7 'ECHR recognises north's Immovable Property Commission', *Cyprus Mail*, 6 March 2010.

8 'Bill seeks to bypass IPC for those in need', *Cyprus Mail*, 18 June 2013.

9 'House: No Guarantee', *Cyprus News Agency*, 19 February 2010.

10 'TRNC Parliament Approves Resolution on Treaty of Guarantee', *Asia Pulse*, 24 February 2010.

rience has shown that the Greek Cypriots cannot be trusted. Unless Turkey has a guaranteed right of intervention, there is little to ensure that the Greek Cypriots will stick to the terms of any settlement. Moreover, the stationing of Turkish troops in Cyprus offers the best safeguards that the Turkish Cypriots will be protected from attack. Therefore, while the number of troops present after a settlement is open to negotiation, they cannot be removed altogether.

Another major Greek Cypriot concern over security that will need to be addressed in any future settlement effort is the question of implementation. This was a major issue in 2004 (Faustmann, 2004). Many Greek Cypriots remain deeply distrustful of Turkey and do not believe that it will be willing to uphold its side of any agreement. They want to know how the international community, including the European Union and the UN Security Council, will ensure that any deal reached will be upheld fully by both sides according to the timetables laid down. This is especially important to the Greek Cypriots as it is likely that the provisions of an agreement that will be phased in will apply to the Turkish Cypriots, whereas their concessions will be made immediately. To illustrate this point, the new constitutional structure of a state will be put in place from the start. At the moment a settlement comes into force, the Greek Cypriots will be expected to share power fully with the Turkish Cypriots. However, the Turkish Cypriots will not be expected to hand back all land and properties to Greek Cypriots immediately as new homes will have to be built first for the displaced Turkish Cypriots. Likewise, Turkish troops cannot be expected to leave at the moment a new arrangement comes into force. It will take time to redeploy them. All this creates the real potential for delays and postponements, and it is this that the Greek Cypriots are determined to avoid. They want to be sure that any agreement put in place will be honoured and that, should this not happen, the international community will take appropriate steps to ensure full and prompt compliance with the terms of a settlement.

Other important questions

While constitutional issues, property and territory, and security represent the most significant points of disagreement, there is a range of other issues that serve to divide the two communities. For instance, the question of Turkish settlers is highly charged. Over the years, Greek Cypriots have insisted that the fundamental tenets of a fair and viable solution to the Cyprus Problem would be based on the repatriation of all Turkish troops and all Turkish settlers. The trouble is that not all Turkish 'settlers' are immigrants. It has now been over 35 years since the invasion. Many of the children of the original settlers brought to the island in the immediate aftermath of the invasion are now approaching middle age and have children of their own who were born

and raised on the island. Cyprus is their home, not Turkey (see Hatay, 2007). A strict adherence to a demand that they all be deported would mean that tens of thousands of people would be forced to live in a country they do not know simply for the actions taken by the Turkish government many decades earlier. The question of the settlers is therefore no longer strictly a legal question. It is also a humanitarian issue. Then there are questions concerning economic management, or the representation of Cyprus in European institutions. How would taxation and expenditure be regulated? And how would the two communities decide on single representation in the EU on issues that they might have separate control over on the island. All these seemingly peripheral questions serve to heighten tensions between the two communities and thus complicate the search for an overall settlement.

Settlement Prospects

While both sides will eagerly blame each other for the current deadlock, the truth is that it is rather hard to blame the failure of the talks exclusively on one side or the other. In reality, neither has appeared to be particularly interested in reaching an agreement to reunify the divided island. Although they both claim that they are willing to accept a bizonal and bicomunal federal settlement, as agreed by the UN Security Council, neither is especially keen on this idea. Opinion polls have shown that the Turkish Cypriots would ideally prefer to have a two state solution (Sozen, 2012). Failing this, they are aiming for a very loose confederal arrangement. Meanwhile, the ideal outcome for the Greek Cypriots would be a unitary state in which the Turkish Cypriots have strong minority rights. This will not happen. They have therefore reconciled themselves to a tight federation, in which they would be able to control as much as possible. The task for mediators has been to try to find a balance between the two second best options. It has been a frustrating and thankless task. Over the years, the two communities have become masters at retaining the status quo. They are more than capable at ensuring that they are not saddled with a solution they do not want.

However, this repeated obstructionism has come at a price for both sides. For the Greek Cypriots, the continued division of the island means that few of the 160,000 people who were displaced when Turkey invaded Cyprus in 1974 will ever get their property back. While the historic *Loizidou* ruling of the European Court of Human Rights (ECHR) recognised the continuing ownership by Greek Cypriots of properties in northern Cyprus,¹¹ later rulings have also recognised that the new inhabitants also have a legitimate claim to them. To this extent, compensation, rather than restitution, is the norm.

11 European Court of Human Rights, 40/1993/435/514.

Moreover, as a result of the steady influx of mainland Turkish citizens into the north of the island, the demographic structure of the Turkish Cypriot community has now changed. There is now a very substantial mainland Turkish population living in the North; quite possibly even a majority. Given that it is highly unlikely that many of these settlers will be required to leave, it is no longer the case that following a solution Greek and Turkish Cypriots will be sitting alongside one another in the parliament, cabinet and civil service. There are likely to be many mainland Turks in state institutions as well. For many Greek Cypriots, the thought of reunifying Cyprus under these conditions is unacceptable. In private, but also increasingly in public, many are now questioning whether reunification is really that desirable. For some, the prospect of a formal negotiated division is the logical answer. For most, a perpetuation of the current status quo is more palatable. Having spent almost three decades trying to prevent the international recognition of the self-proclaimed 'Turkish Republic of Northern Cyprus' (see Ker-Lindsay, 2012), few Greek Cypriots are now willing to just give up and reward Turkey and the Turkish Cypriots with their own state on the island.

Meanwhile, the Turkish Cypriots are also facing the consequences of their earlier intransigence. Their unilateral declaration of independence, in 1983, has left them economically, politically and culturally isolated on the world stage. After thirty years, many are now asking just how much longer the situation can last. Once again, talk has turned towards a Plan B.¹² The problem is that the Turkish Cypriots have few alternatives to reunification. For instance, efforts to try to persuade more countries to recognise the TRNC are unlikely to produce results. UN Security Council Resolution 541 (1983) expressly calls on states not to recognise the Turkish Cypriot state. Moreover, when Cyprus acceded to the European Union, in May 2004, it did so as a single entity. The *acquis communautaire*, the EU's body of laws, may be suspended in the north of the island. However, the north is still legally regarded as a part of the EU. As a result, any country recognising the unilaterally declared independence of the TRNC would automatically be raising the real prospect of punitive action by the EU. A few countries may be willing to take the risk – but not many. Although it is certainly possible that some states will increasingly normalise their relations with the TRNC, and the Organisation of Islamic Co-operation has called for member states to enhance their co-operation with the Turkish Cypriots (Organisation of Islamic Cooperation, 2013: 12), wider international recognition therefore seems unlikely.

Another option that has been suggested is the possibility that Turkey may annexe the north of the island.¹³ In fact, this is not a new threat. It was used

12 'Cyprus remains bitterly divided as Turkish north buries former leader', *The Guardian*, 20 January 2012.

13 'Turkey May Annex North Cyprus If No Reunification, Kibris Says', *Bloomberg*, 5 March 2012.

many times by Turkish politicians in the 1990s and early 2000s in order to try to dissuade the EU from opening accession talks with the Republic of Cyprus.¹⁴ At that time it was widely seen as a bluff. It still is. It would be extremely unlikely that Ankara would take such a drastic step. Any attempt to annexe northern Cyprus would immediately bring to an end whatever hopes there might still be that Turkey could join the European Union someday. Quite apart from the fact that Nicosia would undoubtedly veto any further accession negotiations with Turkey, it is almost certain that many other EU members would happily seize such an opportunity to close the door to Turkish membership once and for all. All things considered, any move by Turkey to lay formal legal claim to the north of Cyprus would have devastating consequences for Turkish-EU relations and would be highly likely to be met with the strongest international condemnation, including within the UN Security Council. Ankara is aware of this. While it might be less than concerned about the effects of such an action on its EU membership prospects, it is unlikely that it would want to jeopardise its recent efforts to build its standing on the world stage.

In truth, the problem facing the Turkish Government is that there are no feasible alternative options if negotiations collapse again. For as long as it harbours any hopes of wanting to join the European Union, Ankara knows full well that the only real choice it has is a continuation of the current status quo or a formal agreement with the Greek Cypriots. The problem is, as already noted, that the Greek Cypriots have shown little inclination in recent years to reach any solution. Moreover, there is little that can be done to force them to engage more constructively. Now that Cyprus is in the EU, and has joined the Euro, they have achieved their key foreign policy goals. Of course, one could argue that the financial situations Cyprus faces could be used to exert leverage.¹⁵ However, it is unlikely that this will happen. After all, what would happen if the Greek Cypriots refused to play ball. Would the EU really cut Cyprus loose, and risk damaging the euro. This is extremely unlikely; and Nicosia knows it. Ultimately, there is no leverage over Cyprus. At the same time, many feel that Germany is probably quite happy to maintain the status quo, thereby providing a convenient pretext for keeping Turkey's EU accession path on hold indefinitely.

Not surprisingly, one can detect a sense of frustration in Turkey about this situation. For example, the Turkish government refused to have any contacts with Cyprus during its six-month period as the rotating presidency of the European Union, in the second half of 2012.¹⁶ In time past, this would have been a source of concern in EU circles. This time, few seem to have cared that much. With the EU facing far more serious problems, enlargement has

14 See, for instance, 'Turkey holds key Cyprus debate', *BBC News*, 23 November 2001.

15 'European Union's Leverage Over Cyprus Is Ephemeral', *Reuters*, 4 February 2013.

16 'Turkey sticks to boycott of Cyprus EU presidency', *Reuters*, 7 June 2012.

dropped down the list of priorities. More to the point, many of the states that are most hostile to the thought of Turkish membership would be absolutely delighted to see Turkey isolate itself in this way. Even Turkey's friends are growing increasingly frustrated at the way that Ankara makes matters difficult for itself. For example, the European Union has frequently called on Turkey to normalise its relations with the Republic of Cyprus. A vital first step in this process, which the Turkish government originally agreed to do as a condition for starting accession negotiations,¹⁷ would be to open Turkish ports and airports to Cyprus flagged vessels and planes. Ankara has steadfastly refused to do so, arguing that this would amount to its recognition of the Republic of Cyprus as a Greek-led entity; rather than as the bicommunal state founded in 1960. This has had a knock on effect in terms of its EU accession negotiations with many EU states believing that Turkey cannot be trusted to keep its word. At this stage, there is very little sympathy for Turkey in EU circles. As a result, it seems almost certain that Turkish-EU relations will deteriorate even further.

However, the tensions between Turkey and the European Union over Cyprus may yet be overshadowed by far more serious issues. Over the course of the last few years speculation grew that there may well be significant quantities of natural gas off the south coast of Cyprus (see Gürel, Mullen and Tzimitras, 2013 and Faustmann, Gürel and Reichberg, 2012). In December 2011 these suspicions were confirmed. Exploratory drilling in one of the thirteen offshore blocks established by the Cypriot government indicated that there was anywhere up to 8 trillion cubic feet (Tcf) of natural gas.¹⁸ Although this has subsequently been revised downwards (to 3.6-6 Tcf), the discovery is nevertheless widely seen to offer Cyprus an important chance to develop an important new revenue stream. The problem is that the Greek Cypriot decision to try to exploit the energy resources has not gone down well in Ankara, or amongst the Turkish Cypriots. The Turkish Government has insisted that the Greek Cypriot administration has no right to exploit these resources without the Turkish Cypriots.¹⁹ Such views have received little sympathy elsewhere. Both the United States and the European Union have repeatedly stressed that the Republic of Cyprus is perfectly within its sovereign rights to exploit any resources it finds within its exclusive economic zone (EEZ).²⁰

17 'Turkey rebuffs Cyprus over ports', BBC News, 16 June 2006

18 'Noble Announces Natural-Gas Discovery Off Coast of Cyprus', *Bloomberg*, 29 December 2011.

19 'Statement Regarding the Claims of the GCASC on Hydrocarbon Resources in the Eastern Mediterranean', Press Release No: 83, Ministry of Foreign Affairs, Republic of Turkey, 23 March 2013.

20 'Turkey rattles sabres over Cypriot natural gas drilling', *The National*, 19 September 2011.

Unhappy with this, Turkey has continued to voice its objections. As well as warning foreign companies not to become involved in gas exploration,²¹ Ankara has said that it will take all necessary legal and political steps to prevent Nicosia from pressing ahead with its attempts to exploit its new found energy deposits. There have even been hints that Ankara may be willing to resort to military force if necessary.²² For the meanwhile, such threats seem unlikely to be carried out. Again, any attempt to use force against Cyprus will automatically lead to a strong diplomatic response from the European Union. At the very least, it will again reconfirm the view held by many in Europe that Turkey is wholly unsuited to membership of a union that is founded on the very principle that no matter how serious the dispute, force, or the threat of force, will not be used to resolve the issue. Still, there is always the danger that posturing could lead to a conflict. While Turkey may have no intention of starting a conflict, accidents can happen when armed forces come into close proximity with one another at times of political tension. Even the act of sending warships to harass drilling platforms could have unforeseen, and unfortunate, consequences. For these reasons, there are real fears about the direction that events are taking.

In addition to the possibility that the Greek Cypriots decision to exploit natural gas may lead to further tension, if not conflict, in the Eastern Mediterranean, it could well have a profoundly negative effect on efforts to resolve the Cyprus problem. As already noted, many Greek Cypriots are sceptical about, if not wholly opposed to, some form of reunification based on a loose federation. As the numerical majority, they have long believed that a solution should give them the greater share of power on the island. The discovery of natural gas is likely to lead to a hardening of such attitudes. It was difficult enough for many Greek Cypriots to accept reunification when it meant sharing political power with the Turkish Cypriots. It could well be even more difficult to accept this when it also means sharing what could be very significant energy revenues. Such concerns will no doubt be exacerbated by the dire economic situation Cyprus is now in as a result of the March 2013 financial crisis. Many Greek Cypriots will undoubtedly be keen to ensure that as much wealth as possible is used to reconstruct their economy before trying to fund reunification.²³

But could the discovery of energy resources also lead to a new opportunity for a settlement? Some certainly believe so. It is hardly a secret that many Turkish Cypriots are becoming alarmed at the direction the north is taking.²⁴ Quite apart from the influx of Turkish settlers, tensions have been growing

21 'Turkey warns 15 countries to stay away from Cyprus' gas', *Cyprus Mail*, 2 August 2012.

22 'Cyprus, Turkey at Odds Over Natural Gas Drilling', *NPR*, 23 November 2012.

23 'Cyprus Turks Share Pain as Banking Crisis Revives Talk of Unity', *Bloomberg*, 3 April 2013.

24 Comments to the author by several Turkish Cypriot political figures, December 2012.

with Turkey. Isolated from the rest of the world, the TRNC is reliant on hand outs from the Turkish state. In an age of austerity, Ankara has called on the Turkish Cypriots to cut back their expenditure, which prompted major demonstration in 2011. This is the source of resentment amongst many Turkish Cypriots and has led to several high profile disagreements between the Turkish Cypriot administration and their pay masters in Ankara (Bryant and Yakinthou, 2012). Against this backdrop, the possibility that the Greek Cypriots may eventually be earning significant revenues from natural gas makes the prospect of reuniting the island more enticing than it has ever been. Rather than be a subsidised province of Turkey, the Turkish Cypriots have an opportunity to be a major part of a new energy-rich Cypriot state. The problem is that the Greek Cypriots may try to overplay their hand. Many will no doubt believe that they now have a degree of strength in the medium-long term that they have rarely enjoyed in the negotiations in the past. As they see it, if the Turkish Cypriots want a share of those revenues they are going to have to make more concessions that they have been willing to accept in the past. While it may be the case that the Turkish Cypriots will be willing to do so, the evidence so far suggests that this is unlikely (Gürel et al, 2013; Gürel, 2014). If energy is to be a catalyst for peace, it will still require both sides to show a fundamental willingness to compromise.

Conclusion

For over fifty years, Cyprus has stubbornly resisted all efforts external efforts to reach a solution. Despite the fact that the two sides have nominally accepted to reunify within a bizonal, bicomunal federation, the truth is that neither side has any real attachment to the idea. For the Greek Cypriots, the ideal solution would be a unitary state in which the Turkish Cypriots had enhanced minority rights. For the Turkish Cypriots, two separate and internationally recognised states on the island would be the preferred outcome. For both, however, a federal settlement represents a less than perfect outcome. Meanwhile, leaving aside the fact that neither community particularly wants a federal settlement, it is also important to note that there is a wide range of specific issues that need to be addressed. These include the question of the constitutional structure of the new state, security, the proportion of territory to be distributed between the two federal states, property, the question of Turkish settlers and the economy. This serves to complicate still further the efforts to reach a conclusive settlement. And yet, on balance, the sense is that none of these issues presents an insurmountable challenge that could not be overcome with the right political will. Meanwhile, the discovery of natural gas is widely seen to have the potential to change the nature of the debate – for better or for worse.

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Comments

Muhittin Tolga Ozsaglam

James Ker-Lindsay wrote an academic article on the Cyprus problem, in which he summarized its historical path while touching also in some current issues. I shall try to point out some features and add some missing points in his text.

Ker-Lindsay analyzes the Cyprus problem since the foundation of the Republic of Cyprus in 1960. He does not, even briefly treat the previous periods of Lusignan, Venetian, Ottoman and British rule in Cyprus. He omits mentioning the oppression of the Orthodox Church and of the Greek population by the Lusignans and Venetians. He also does not mention that the Ottoman rule brought a kind of emancipation to the Orthodox Church combined with the Greeks' privileged status obtained under the Ottomans. The tensions between the Turks (Muslims) and the Greeks on the island followed the revolts by Greek clergymen against the Ottoman authorities. Ker-Lindsay mentions briefly that during the British rule tensions were raised by the independence movement among the Greek Cypriots who wished to be united with Greece and by the founding of EOKA-A. On the other hand the Turkish Cypriots were massively employed in the British police. These developments are at the root of the conflict which have developed on the island since XIXth century. Greek Cypriots did not care the existence of Turkish Cypriots during their independency struggle while Turkish Cypriots had no nationalist aspirations widely. However, afterwards Turkish Cypriots have begun to agree on separatist-partition idea and therefore mistrust increased among the communities. Eventually, the nationalists of the both communities injected the impossibility of co-existence to the public.

While explaining the origin of inter-communal clashes between the Turkish and Greek Cypriots in 1963 Ker-Lindsay fails to mention the Akritas plan. This document was prepared in 1963 by Polikarpos Yorgacis, Interior Minister of the Republic of Cyprus (Akritas was his nick name). The Turkish Cypriot leadership considered the 13 amendments to the constitution proposed by the Greek Cypriot leadership as part of the Akritas plan. The Akritas plan was not expressed to the public until 1966, which was published by Greek Cypriot Newspaper (Patris). The Turkish Cypriot leadership perceived the 13 points (amendments) as the part of the plan, and that plan was as the path for union (enosis) of Cyprus with Greece.¹ Therefore, Turkish Cypriot leadership has focused on partition obviously as a kind of alternative

1 For more details, see, Haralambos Athanasopoulos, *Greece, Turkey and the Aegean Sea* (2001). McFarland & Company, Inc., Publishers, USA, p. 45.

to Akritas Plan. Describing the political atmosphere on Cyprus during the 1963-1974 period, Ker-Lindsay does not mention the withdrawal of Turkish Cypriot deputies and representatives from the institutions of the Republic of Cyprus. It was a development of crucial importance since the Hellenisation of the Republic of Cyprus was legally unleashed in the absence of Turkish Cypriot representatives.

Ker-Lindsay underlines the importance of the Denktas-Makarios (1977) and Denktas-Kyprianou (1979) agreements, which laid down the framework for a comprehensive solution of the conflict on the basis of federalism and bi-communalism and bizonality. The author unfortunately does not mention the re-opening of Varosha on the basis of the 1979 High Level Agreement. The latter was concluded without waiting for a comprehensive solution of the Cyprus conflict (N.B. Varosha is part of Famagusta, still called the "Ghost City" by the Greek Cypriots who fled following the advancing Turkish army in 1974). After agreement on Varosha has been reached it will be implemented without awaiting the outcome of the discussion on other aspects of the Cyprus problem. Nowadays, Varosha is called as the "GhostCity" by Greek Cypriots and Greek Cypriot leadership wants the opening of Varosha as the part of confidence building measures, however Turkish Cypriot leadership see opening of Varosha as the part of comprehensive solution of Cyprus Problem. Although, Turkish Cypriot and Greek Cypriot civil initiatives' demands (such as, bi-communal Famagusta Initiative) Varosha is still closed.

Ker-Lindsay also omits mentioning the political climate in the Northern part of Cyprus and in Turkey in 1983 when the Turkish Republic of Northern Cyprus (TRNC) was proclaimed. That was the time of military rule in Turkey and of a highly authoritarian atmosphere in Turkey and also on the island which silenced opposition among the Turkish Cypriots to separatist declaration by Rauf Denktas and his party. Some figures provided by Ker-Lindsay are questionable. He gives, for example, the figure of 150 thousand for the total population in the Northern part of the island, while the 2006 census gave the figure of 265 thousand.² He also cites an unrealistic number of demonstrators against the Annan Plan (70 thousand) which marked a crucial milestone in the endeavors for re-unification of Cyprus. While touching contents of the Annan Plan the author should have analyzed more thoroughly the roles of the Republican Turkish Party (CTP), of the coalition government in the North in 2003-04, Papadopoulos in the South, and the foundation of the Immoveable Property Commission (IPC) by Turkish Cypriot authorities. The Commission latter gave the Greek Cypriots the right to apply for compensation, exchange of properties or using-return to their properties. The establishment of IPC was notably welcomed by the European Court of Human Rights (ECHR).

2 TRNC, State Planning Organization, <http://nufussayimi.devplan.org/Nufus-nitelikleri-index.html> (2-9-14).

Ker-Lindsay correctly underlines that the secession of TRNC has increased the relative isolation of the Turkish Cypriots. He did not however mention the current status of many as EU citizens who use the Republic's of Cyprus identity cards and passports and benefit from the EU funds and green line regulations. The EU North Cyprus Support Office has provided scholarships to Turkish Cypriot students, teachers and academics, funds to farmers, small enterprises, municipalities etc.

Ker-Lindsay has drawn well a wide picture of the *Cyprus problem*. However while presenting the general characteristics of the conflict, he overlooked some important particulars.

Recommendations¹

International Crisis Group

Crisis Group has detailed in its reports how the interests of the Cypriots and outside parties would be best met with a comprehensive political settlement. This remains the ideal, but the sides should move ahead with unilateral steps such as the following, each of which could build confidence and help establish an environment more conducive to an overall agreement:

- Turkey should open its ports and airports to Greek Cypriot sea and air traffic, meeting its signed 2005 obligation to implement the Additional Protocol to its EU Customs Union, and also permit Greek Cypriot aircraft to transit its airspace.
- Greek Cypriots should allow the port of Famagusta to handle Cypriot (including Turkish Cypriot) trade with the EU, under Turkish Cypriot management and EU supervision; end their practice of blocking Turkey's EU negotiating chapters; and, in the event of trade beginning with Turkey after it implements the Additional Protocol, open up the Green Line to the passage of Turkish goods so that Turkish Cypriots can also benefit.
- Turkey and the Turkish Cypriots should hand back property in the Turkish-military controlled ghost resort of Varosha to its Greek Cypriot owners, subject to a UN interim regime that oversees reconstruction.
- Greek Cypriots should allow charter flights to Ercan Airport in the Turkish Cypriot zone, monitored by the EU.
- Turkey, Greece, the UK and the two Cypriot communities should put in place a mechanism to verify troop numbers on the island. Similarly, the Turkish Cypriot leadership should organise with Greek Cypriots a census to determine the exact population of the island and the legal status of its inhabitants.
- Greek Cypriots should cooperate with Turkish Cypriot administrative entities, pending a political settlement. Turkish officials should meet with Greek Cypriot officials, and Turkish Cypriots should be supportive. The European Commission, supported by the EU Presidency, should continue to serve as an honest broker to secure agreement on interim steps. Leaders of EU member states should

1 "Cyprus: Six Steps toward a Settlement", International Crisis Group, Europe briefing no. 61, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/cyprus/B61-cyprus-six-steps-toward-a-settlement.aspx> (25-7-12).

avoid partisan statements at a time when UN talks continue and no one party is being clearly obstructive.

Even in the absence of an overall Cyprus settlement, the parties should re-examine the benefits of independent confidence-building moves, seek mutual advantage and avert a deepening of the crisis by taking these steps specific to the energy issue:

- The Greek Cypriot leadership should commit to share 20 per cent of any net revenue or gas from any offshore hydrocarbon resources with Turkish Cypriots, possibly distributed through a UN-supervised arrangement, as long as both parties remain formally committed to reunification. Turkish Cypriots should commit to share with the Greek Cypriots an inverse proportion of their hydrocarbon revenues from their ongoing onshore drilling activities.
- Greek Cypriots should agree with Turkish Cypriots to form a bi-communal, advisory ad hoc committee to discuss energy issues, and to plan potential domestic and industrial use of the gas throughout the island.
- Turkey and Turkish Cypriots should stop using threatening rhetoric and naval maneuvers inside the island's EEZ, even if they dispute its limits; and formally commit not to interfere with, or to drill in, offshore hydrocarbon blocks that are in these waters, including the new Aphrodite field and areas west of Cyprus, pending an arrangement.
- If the basic environment for dialogue is established:
- Turkey and the Republic of Cyprus should agree, possibly with third-party mediation, to discuss eastern Mediterranean energy issues, without prejudice to the UN-facilitated talks, or to any official recognition that will follow a settlement. They should study the feasibility of and consider possible cooperation on a gas export pipeline to Turkey, and onwards to Europe, with strong third-party arbitration clauses.
- Turkey, Cyprus and Greece should agree to take their claims for EEZs in the Eastern Mediterranean to the International Court of Justice (ICJ) or an arbitral tribunal.

These steps are in the interest of all and should be taken unilaterally by the party with the power to do so, not reserved for or made dependent upon negotiated agreements and reciprocity. Some are familiar but have failed because they were bundled into top-heavy negotiated packages, with each side conditioning its one step on two by its counterpart. Package deals in the Cyprus context have little chance. It is unilateral gestures that have worked in the past, like the Turkish and Turkish Cypriot decision in 2003 to open part of the front lines so Cypriots could cross freely, and the Greek Cypriot decisions since 2004 to offer individual Turkish Cypriots living in the north some

citizenship rights, including free health care in 2003 and EU passports since 2004.

The steps proposed would address known needs of the two communities and, far from undermining any party's goals, clear the way for successful negotiations. They would not prejudice the ultimate outcome of talks, or the vexed issue of status, but would help build trust whose absence is a principal reason for three and a half decades of stalemate. In some cases they would fulfil pledges, like Turkey's obligation to open sea and airports to Greek Cypriot traffic and the EU's promise of direct trade for Turkish Cypriots.

Cooperation in the exploitation of significant gas finds, which Greek and Turkish Cypriot leaders agree are a common heritage, can help build confidence without prejudicing the eventual outcome of comprehensive talks. If the sides continue engaging in unilateral actions, tensions will rise, accidents will become more likely, and Turks and Greek Cypriots will be on course for a head-on collision in the eastern Mediterranean.

If the status quo continues, Greek Cypriots will find that their rejection of the EU-backed UN peace plan in 2004 has led to deepening partition. The EU will find its soft power diminished and Cyprus will remain an awkward symbol of inability to solve the political and military division even of a member state.

Moldova vs. Transnistria

The Transnistrian conflict

Natalya Belitser



The Transnistrian conflict is characterized by quite a few features which make it distinct from other post-soviet conflicts. The Nistru river provides a natural divide between the Republic of Moldova (RM) on the right bank and its eastern Transnistrian region – the self proclaimed “Transnistrian Moldovan Republic (TMR)”, on the left bank. The population on both banks consists of people belonging, in different proportions, to the same ethnic groups and religious denominations. Underlying causes of violent conflicts based on ethnic or religious animosities, mistrust, or historical grievances, are largely absent in this case. In contrast to other conflicts in the Caucasus and Balkans no violent clashes or military actions of any type have occurred after the cease-fire agreement of July 1992. However, a “civilisation gap” in social

psychology, perceptions, and geopolitical preferences, conditioned by a recent historical experience of belonging to different state structures and entities, shaped quite a different social climate, mentality, sets of values and mindset of people on the two banks of the Nistru River.

The *de-facto* Transnistrian statehood has existed for over 20 years and possessed many attributes of a genuine state: institutions of executive and legislative powers, a judicial system, a Constitutional Court, currency, customs, border guards, security service, education system, etc., not to mention the armed forces that are considered more numerous and better equipped than those of the Republic of Moldova (RM). Leaving aside the issue of their quality and disputable compliance with democratic standards, it should be noted that the very existence of these institutions has had a notable impact on the ordinary people, on prospects and possible scenarios of conflict settlement, on the attitudes towards the Transnistrian problem among internal and external actors, mass media, academia and the expert community.

Proposed solutions and bilateral developments

Initially the efforts to put an end to armed conflict were undertaken within the format of the CIS (Commonwealth of Independent States) and by the heads of the most interested neighbouring states, namely, Russia, Ukraine, and Romania. At the Kyiv meeting in March 1992 the heads of the CIS countries adopted a declaration stating that the territorial integrity of the Republic of Moldova is the key element for the entire stability in the region. Initially, conflict management efforts had included experts from not only Moldova, Russia, and Ukraine but also from Romania and Hungary. The Conference for security and cooperation in Europe (CSCE) was then preoccupied with the crisis in the former Yugoslavia and the CSCE Mission to Moldova was established only in April 1993. Already in November of the same year the CSCE Mission prepared a report outlining proposals to serve as a basis for further negotiations between the two sides. The report stated that Transnistria could exercise the right of 'external self-determination' in the case of Moldova's merging with Romania and recommended Moldova's decentralisation based on the principle of subsidiarity. The special region of Transnistria as integral part of Moldova would enjoy extensive self-rule, with its own executive, elected legislature, courts and shared competences. Negotiations based on the OSCE proposal started in 1994. On 19 January 1996 Russia, Ukraine and Moldova signed a Joint Declaration Recognising the Sovereignty and Territorial Integrity of the Republic of Moldova.

Among remarkable initiatives in the 1990s was the Memorandum of Understanding on the Principles of Normalisation of Relations between the Republic of Moldova and the Transnistrian Republic signed in Moscow on 8

May 1997. It proposed the formation of a 'common state', although a few concrete details were provided. The Transnistrian statehood was thus implicitly recognised. The Memorandum included TMR's right to conduct its own foreign relations and the presence of a peacekeeping force was reaffirmed. The document was seen as a compromise between two incompatible positions: Moldova's demands for restoring its territorial integrity and TMR's demand for 'external' self-determination. However, further negotiations were blocked and never reached the point of discussing the division of competences between Moldova and TMR, or any other substantive issues.¹ The Agreement on Confidence-building Measures and Development of Contacts between the Republic of Moldova and Transnistria was signed in Odessa on 20 March 1998. It called for a reduction in the contingent of peacekeepers, invited military observers from Ukraine and addressed a number of concrete issues. A Joint Statement on Issues of Normalisation of Relations between the Republic of Moldova and Transnistria was signed in Kyiv by the two parties and three mediators on 16 July 1999. That document contained an important provision for five 'common spaces' – common borders, common economic, legal, defence, and social domains. Regrettably none of these have been ever implemented.

The most important event of the late 1990s was the OSCE summit in Istanbul in November 1999 where the Russian Federation committed itself to the withdrawal of Russian troops and equipment from Moldova – weapons by the end of 2001, whereas the personnel and stockpiled equipment by late 2002. In fact by 2003, the peacekeeping force still consisted of estimated 1,000 troops, deployed in thirteen posts, at some manned by the Russians only, while the others were trilateral.² Throughout the 1990s the peacekeeping operation and control mechanisms proved to be rather effective to secure the cease-fire agreement. However, they maintained the status quo in divided Moldova rather than contributed to finding a viable solution for reintegrating the self-proclaimed TMR into the Moldovan state.

During the next decade a few normalization plans were proposed. The most hotly discussed were those based on the idea of federalisation. At a meeting in Kyiv in July 2002 the mediators proposed, on the initiative of OSCE, a draft agreement on distribution of competencies between Chisinau and Tiraspol. The document defined the Republic of Moldova as a 'federal state'. The implementation of the agreement would be monitored and ulti-

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- 1 Basic Documents in Pridnestrovyan Conflict Resolution. Friedrich Ebert Stiftung. Kiev, 2000.
 - 2 Lynch, Dov. Moldova and Transnistria (2004). In: *Security-Sector Reform and Transparency Building: Needs and Options for Ukraine and Moldova*, Harmonie Papers 17. The Centre for European Security Studies. pp. 111-122.

mately guaranteed by the Russian Federation, Ukraine and OSCE.³ This plan has had both critics and supporters on both sides and among international experts. In general it was considered worth of serious attention and further elaboration.⁴

Regrettably, instead of a wide discussion on the 'Kyiv Document', another federalisation plan, elaborated unilaterally by the Russian Federation and usually referred to as the 'Kozak plan', appeared on the scene (Lynch, 2004).⁵ The content and style of the proposal, taken without any intention to discuss it with other interested parties, including official mediators, alienated OSCE, the Council of Europe and, seemingly, the European Union as well. In Moldova the Russian federalisation plan produced a sharp negative reaction and public protests. As a result, just at the eve of President Putin's visit to Chisinau in order to participate in an official signing of the document, President Voronin 'suddenly' changed his mind and reversed his promise to sign the 'Kozak plan'. This last-minute refusal provoked an angry reaction from the Russian side. Further negotiations were frozen, the Moldovan President compromised his position domestically and complicated relations with Russia. Moscow was insulted by Moldova's last minute rejection of what was planned as a surprise coup. The only clear winners were seemingly the leaders of the Transnistria.⁶

The situation stagnated until the Orange Revolution in Ukraine of 2004 which brought to power pro-Western President Victor Yushchenko and his team. A new proposal, known as the 'Yushchenko plan' was presented in May 2005. Although far from being unanimously hailed by the Moldovan political class and civil society,⁷ it was used as a basis for preparing the "Organic Law on the principles of resolving the conflict in Transnistria". This

3 Socor, Vladimir. Federalization Experiment in Moldova (2002). In: Russia and Eurasia Review 1, 4. <http://miris.eurac.edu/mugs2/do/blob.html?type=html&serial=1035991567713>, (16-7-02).

4 Belitser, Natalia. Protracted Moldova/Transnistria Conflict: Recent Developments and Prospects of Settlement via Federalisation of the Republic of Moldova (2004). *Research Paper presented to the Second International Conference on Regional Autonomy and Ethnic Minorities, June 10-13, 2004, Uppsala, Sweden.*

5 Lynch, Dov. Moldova and Transnistria (2004). In: *Security-Sector Reform and Transparency Building: Needs and Options for Ukraine and Moldova*, Harmonic Papers 17. See also Shafir, Michael. *Russia's Self-Serving Plan for Moldova's Federalization* (2003). RFE/RL Newline 7,221, 24/11/2003, End Note.

6 Ibid.

7 Nantoi, Oazu. *The Plan for the Transnistrian Conflict Settlement Proposed by Ukraine - pros and cons* (2005). Institute for Public Policy. <http://www.ipp.md/libview.php?l=en&id=377&idc=154>, (8-6-05). For a detailed analysis of this plan and other important events of 2005, see: Belitser, Natalya. *Why 'Yushchenko plan' has failed* (in Ukrainian) (2010). In: *EuroAtlantica*, 2010 1, pp. 32-43.

law was adopted by Moldova's parliament on July 22, 2005.⁸ Strong resistance from the Russian and Transnistrian sides prevented, however, any further attempts of implementing of either the Yushchenko plan or the Moldovan law mentioned above.

New hopes for conflict resolution have appeared in 2009 after the parliamentary election in the Republic of Moldova. A pro-Western team – the Alliance for European Integration (AEI) – terminated then the Communist Party's rule since 2001. The new government proved to be much more pragmatic and willing to deal with its breakaway region than their predecessors. Important changes have later also taken place in Transnistria, due mainly to the surprising results of the presidential elections in December 2011. The long-serving president Igor Smirnov failed to be re-elected, having lost Moscow's support. The same occurred also to Moscow's favourite Anatoliy Kaminsky. An impressive majority of voters gave preference to a young leader of the 'Revival' movement Yevgeny Shevchuk. His victory revived the hopes for positive developments. To some extent these expectations came true.

The most remarkable positive change in the first half of 2012 were close relations established between the new Transnistrian leader and Moldova's Prime Minister. The two leaders met, both officially and unofficially, many times and in different places. By the end of 2011 official negotiations were resumed in Lithuania. They were followed by a meeting in February 2012 in Ireland. On July 12-13, 2012 a document on the principles, procedures and agenda for negotiations was signed in Vienna. It included such topical issues as the freedom of movement of persons and goods, circulation of trains, education issues, etc. The main attention became focused on Confidence Building Measures (CBMs), while political aspects, including security issues and developing a mutually accepted status of Transnistria, were not addressed. A priority was given to solving a number of practical issues. Since then a number of steps have been taken which included establishing joint Working Groups on confidence – building measures, conducting high level meetings and elaborating social and economic development projects. Currently, there are twelve working groups existing, eleven of which are functional, namely, those on economy, agriculture, environment, transport, railways, civil status acts, social and humanitarian aid, health, education, combating organised crime. Modest progress has been achieved in economic activities across the line of separation between the Republic of Moldova and Transnistria.

8 Socor, Vladimir, *Moldova Law Completely Changes the Logic of Settlement on Transnistria* (2005). Eurasia Daily Monitor 2, 114. [http://www.uci.pr.kiev.ua/publications/3134/lang/en/view_print, \(26-7-05\)](http://www.uci.pr.kiev.ua/publications/3134/lang/en/view_print, (26-7-05)).

The European Union's role⁹

The European Union enjoys a positive reputation on both sides of the river. It has also accumulated significant experience in conflict resolution. In 2005 the negotiation format on Transnistria was expanded by adding EU and US observers (the '5 + 2' format). By the end of the same year, the EU Border Assistance Mission (EUBAM) was established¹⁰ at the Ukraine-Moldova border, including its Transnistrian segment. At the request of the Moldovan and Ukrainian sides its mandate was twice extended to 2015.

After the entry of two new members – Romania and Bulgaria in 2007, the Republic of Moldova became the European Union's immediate neighbour making it impossible any more to ignore the Transnistrian issue. Since then the European Union has undertaken several steps of engagement in conflict resolution. A number of these steps have promoted a kind of "economic integration" of the Transnistrian region into Moldova's common space. However at the political level there has been no progress. The only kind of cooperation with the European Union that Transnistria's leadership had then accepted was humanitarian aid, social security, medical services, environmental matters etc. In its turn EU was cautious and avoided all political matters in order not to antagonise the Tiraspol authorities. The EU position however remained unwavering regarding the Transnistrian Moldovan Republic as a part of Moldova. An important contribution by the European EU to conflict resolution has been providing financial support to various projects and initiatives. The European Union has actively encouraged a gradual rapprochement of the two sides in the conflict by supporting and funding the projects on Confidence Building Measures (CBM), through humanitarian and social projects, business development and community and civil society capacity-building.

After Ukraine has lost its role as the "regional leader" in the Eastern Partnership (EaP), Moldova started receiving progressively more attention and support from EU. In 2010 negotiations were launched on an Association Agreement with the EU, a core element of which is a Deep and Comprehensive Free Trade Agreement (DCFTA). The agreement was finally signed in

9 Cristescu, Roxana, Matveev, Denis. *Peacebuilding and Conflict Prevention in Moldova: the role of the EU* (2011). http://www.eplo.org/assets/files/2.%20Activities/CSDN/Member%20State%20Meetings/Romania/CSDN_Romania_CaseStudy_Moldova.pdf (28-6-11). Belitser, Natalya. Rossiyskiy faktor na postsovetском prostranstve: yevraziyskiy proekt Moskvyy, pridnestrovskiy conflict i yevropeyskaya integraytsia Moldovy (2013). In: *Forum noveishei vostochnoevropeiskoi istorii i kul'tury/Forum for Contemporary East European History and Culture* 10, 1 (in press).

10 Belitser, Natalya. 8. Role and Significance of the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) (2009). In: *Transnistrian Problem: A View from Ukraine*. Gerasymvuk, Serhiy (ed.). *Strategic and Security Studies Group*. Kyiv, pp. 96-120. http://www.gsbs.org.ua/wp-content/uploads/December_2009.pdf.

June 2014. It has brought benefits and also major challenges. Some of the latter relate to Transnistria. The inclusion of the Transnistrian economy into its framework would be beneficial to all parties and to the eventual resolution of the conflict.¹¹ Another promising step on the part of the EU was concluding in February 2014 an agreement on a visa-free regime. This change, effective from April 2014 is expected to entice more residents of Transnistria to acquire also Moldova's passports, thus giving Chisinau a stronger leverage in negotiations with Tiraspol. Until now the European Union has not undertaken any move to upgrade its status in the negotiation process, now limited to being merely an 'observer'. Changing its current status to that of a full-fledged participant in negotiations would be a logical step, beneficial for the process.

The Russian Federation's and Ukraine's roles

Throughout the entire period of the Transnistrian conflict Russia has been recognised as the main supporter of the separatists on the left bank. Some argue that Russia itself is a party in the conflict and therefore can not play the role of an impartial mediator and "guarantor". Such views are not fully unsubstantiated. In its decision of 8 July 2004 in the case of "Iliascu and Others v. Moldova and Russia" (no. 48787/99), the European Court of Human Rights stated:

"The Russian authorities had therefore contributed both militarily and politically to the creation of a separatist regime in the region of Transdnistria, part of the territory of the Republic of Moldova. Even after the ceasefire agreement of 21 July 1992 Russia had continued to provide military, political and economic support to the separatist regime, thus enabling it to survive by strengthening itself and by acquiring a certain amount of autonomy vis-à-vis Moldova. In the Court's opinion, all of the acts committed by Russian soldiers with regard to the applicants, including their transfer into the charge of the separatist regime, in the context of the Russian authorities' collaboration with that illegal regime, were capable of engaging responsibility for the consequences of the acts of that regime.

The Russian army was still stationed in Moldovan territory in breach of the undertakings to withdraw them completely given by Russia at the OSCE summits in 1999 and 2001. Both before and after 5 May 1998, when the Convention came into force with regard to Russia, in the security zone controlled by the Russian peacekeeping forces the "MRT" regime continued to deploy its troops illegally and to manufacture and sell weapons in breach of the agreement of 21 July 1992. All of the above proved that the "MRT" remained under the effective authority, or at the very least under the deci-

11 Beyer, John. *Routes across the Nistru* (2011). SAFEWORLD, May 2011, p.6. <http://www.saferworld.org.uk/downloads/pubdocs/Routes%20across%20the%20Nistru%20English.pdf>.

sive influence, of Russia, and in any event that it survived by virtue of the military, economic, financial and political support that Russia gave it".¹²

The Russian Federation heavily subsidizes Transnistria by providing gas and oil at below-the-market prices. It was calculated that in addition only in 2007–2010, Russia provided financial support to the amount of \$55.5 million as humanitarian aid. In summer 2010 these transactions were stopped and then resumed in summer 2011. The next interruption occurred after the presidential elections in Transnistria of December 2011, expressing, evidently, Russia's dissatisfaction with the victory of Yevgeny Shevchuk (instead of Moscow's favourite A. Kaminsky). This drop put the new government, facing a budget deficit of 72 percent, into an extremely difficult position. The payment of salaries and pensions was significantly delayed, threatening to undermine the Shevchuk-led government position, in its struggle with parliament controlled by the political rival 'Renewal' (Obnovleniye) Party. After numerous appeals by Yevgeniy Shevchuk Russia resumed its financial assistance in July 2012.¹³

The endeavours aimed at bringing closer the positions of the European Union and of Russia on the Transnistrian problem have brought, so far, only very modest results. The main obstacle has been Russia's unyielding position with regard to transforming the military peacekeeping mission into an international civilian one and to the demilitarisation of the region in general. According to Russian authorities, all this could become possible only after a political solution of Transnistria's status within reunited Moldova, is agreed upon by all participants in the negotiation process. Russia has refused to discuss the issue of its military peacekeeping operation in Transnistria with the EU and US representatives stating that the peacekeeping format may only be addressed by the official participants in the conflict resolution process – OSCE, Russia, Moldova, Transnistria, and Ukraine.¹⁴

At the forum "Seliger-2012" President Vladimir Putin stated that "only the people inhabiting Transnistria can define its destiny whereas the international community, including Russia, shall respect its choice".¹⁵ This statement in fact renounces Russia's support to territorial integrity of the Republic of

12 Grand Chamber Judgement in the Case of Ilascu and Others v. Moldova and Russia. [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61886#{%22itemid%22:\[%22001-61886%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61886#{%22itemid%22:[%22001-61886%22]}) (8-4-04).

13 For more details, see: Yevgeniyu Shevchuku vydali avans. Kommersant.md. <http://kommersant.md/node/9208> (18-7-12).

14 Minzarari, Dumitru. *The Kremlin Politically Fortifies Its Military Presence in Transnistria* (2012). Eurasia Daily Monitor 9, 114. [http://www.jamestown.org/programs/edm/single/?tx_ttnews\[tt_news\]=39502&cHash=487137fc5a1f9c7350022811b2d19632](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=39502&cHash=487137fc5a1f9c7350022811b2d19632) (15-6-12).

15 Putin: only Transnistrian people itself can decide its destiny (in Russian). <http://pan.md/news/Putin-Toliko-sam-pridnestrovskiy-narod-mojet-opredeliti-svoyu-sudibu/25349> (31-7-12).

Moldova. It could mean that if Transnistria decides to hold a referendum on its independence, similar to that of September 2006, the Russian Federation might accept its results with the consequences akin to those in South Ossetia and Abkhazia.

Since Russia has always played a special role at all stages of the conflict and continues to be seen by the left bank population as their main supporter and protector, persuading Russia to embark, together with EU and US, on a common pathway of conflict resolution is crucial.

Ukraine is the only country bordering Transnistria. Therefore it has a strong incentive for resolving this conflict. Especially so because Ukraine experienced its direct negative impact during the bloody clashes in spring 1992, when tens of thousands Moldovans fled the conflict-ridden area to Ukraine. They were given then the status of asylum-seekers. There is also a sizable Ukrainian minority, constituting almost 30 percent of the Transnistria's population. Their situation is obviously a matter of concern for Ukraine. In 1995 Ukraine was officially included into the negotiation process as a mediator and "guarantor" and in 1998 ten Ukrainian military observers joined those from Moldova and Russia. However for a long period following this step Ukraine's role had been insignificant and its position hardly different from that of Russia. Taking into account Ukraine's deep knowledge of the situation in Transnistria, and its high interest in reaching a peaceful and sustainable resolution, new initiatives were expected in 2013 – the year of Ukraine's OSCE chairmanship. These hopes, regrettably, did not materialise. The sharpened obstructionist position of both Transnistria and Russia prevented any further progress.¹⁶

Poor prospects of a settlement

By 2015 all attempts failed to achieve some progress in conflict management. The reasons for such an unfortunate outcome are numerous and diverse. Among them, the economic and financial crisis, especially in the Euro zone, distracted the European Union's attention from this particular problem. The political turmoil in Ukraine as well as the political crisis in the Republic of Moldova in February – May 2013 also diminished the chances for a coordinated activity backed up by EU and US. At the same time, Russia has resumed its strong political support for Transnistria and intensified financial and humanitarian assistance to its impoverished population and sinking economy. Russia's aid turned out indispensable for Transnistria's survival

16 Socor, Vladimir. Russia Trips up Ukraine's OSCE Chairmanship in Transnistria (2013). *Eurasia Daily Monitor* 10, 35. [http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=40502#.UbDaA9gt2M8](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=40502#.UbDaA9gt2M8) (25-2-13).

and promoted the cause of Eurasian integration also on the right bank of the Nistru River. Joining the Russia-led Customs Union and, in perspective, the Eurasian Economic Union has become more popular, whereas the support for integration with the European Union, pursued by the Moldovan government and political elites, has decreased.

Transnistria has been perceived by many as a burden, hampering and/or preventing Moldova's "Europeanisation" and eventual entering the European Union. Regrettably, such views are present not only in Moldova and neighbouring Romania. They surface sometimes in citing the example of divided Cyprus, one part of which joined the European Union, whereas the other continues to exist as an internationally unrecognised entity. Especially detrimental for the reintegration prospects are various "unionist" movements and initiatives for the reunification of Moldova with Romania. These initiatives provoke strong resistance in Transnistria and are used as a decisive argument against reintegration. The temptation to reach a quick solution for the Transnistrian conflict by forcing premature reunification of the country has proved unrealistic. It is important to promote "people-to-people" horizontal contacts among NGOs, professionals, economic, cultural agents and other actors from both RM and TMR, with a wider engagement of actors from other European countries. For younger generations of Transnistrians, in particular, this could help to perceive reintegration not as something imposed, and/or dangerous, but as a natural way out of permanent uncertainty, suspicions, and imagined threats, thus gradually overcoming the syndrome of a "besieged fortress".

The turbulent events in Ukraine in 2013-2015 renewed the concerns over Transnistria. After Crimea's annexation by Russia there were expectations that it would be followed by the recognition of "independent" Transnistria. However, no steps in this direction were undertaken. The concerns over Transnistria were related mainly to the feared presumed intention of Moscow to create a wide belt of Russian-controlled territories in Eastern and Southern Ukraine bordering on the Transnistrian segment of the Ukraine-Moldova border. If implemented this belt would make Transnistria an integral part of a larger geopolitical project called "Novorossia".¹⁷ However Transnistrian policies related to the Ukrainian crisis turned out much more cautious and pragmatic than it has been anticipated. Tiraspol has not recognised the two self-proclaimed republics in Donetsk and Lugansk, although both officially asked Tiraspol to do so, and did not approve some former Transnistrian officials' joining the Ukrainian separatists. Tiraspol also hotly protested against Ukrainian mass media's portraying Transnistria "as an enemy" of Ukraine.¹⁸

17 Belitser, Natalya. *Moldavskiy separatizm kremlivskoji zakvaski* (in Ukrainian) (2014). GLAVCOM. <http://glavcom.ua/articles/20510.html> (30-6-14).

18 *PMR i Rossiya podpisali 7 memorandumov o sotrudnichestve v raznykh oblastiakh* (in Russian). Transdnestrinform. <http://tdinform.com/ru/news/20140702/05415.html> (2-7-14).

The developments in neighboring Ukraine and in Moldova's relations with the European Union made Transnistria's position even more delicate than before and brought to a standstill the international efforts to resolve the Transnistrian conflict.¹⁹

19 Oleksy, Piotr. *Transnistria's Difficult Choice* (2014). New Eastern Europe. <http://www.neweasterneurope.eu/interviews/1286-transnistria-s-difficult-choice> (5-8-14).

OSCE's efforts to resolve the conflict

Erwan Fouere

“There is no such thing as a conflict that can't be ended. They are created and sustained by human beings. They can be ended by human beings.”

Senator George Mitchell, at the “shared future” conference on the Northern Ireland peace process, Dublin, 27th April, 2012

Over two years has passed since the relaunch of the negotiations in the Transnistrian settlement process. More progress was made in the negotiations over this period than in the previous twenty years combined. It is thus an appropriate moment to take stock of developments and to assess the chances of further progress in the period ahead.

While there exists since the beginning of 2012, a high level of dialogue between both sides of the Nistru river, this was not always the case. As the paper of Dr Belitser eloquently illustrates, there were repeated attempts, ever since the conflict started in 1992, at promoting dialogue aimed at a comprehensive settlement but always ending in failure; official talks were even suspended in 2005.

It was only in September 2011, almost six years later, that agreement was reached to relaunch the negotiation in the ‘permanent conference for political questions in the framework of the negotiating process for the Transnistrian settlement’. This is the official title of the process more commonly referred to as the “5+2 process” because of its composition – Russia, Ukraine and the OSCE as mediators, plus the two sides Moldova and Transnistria, and finally the EU and us as observers.

Accordingly, the 5+2 met in Vilnius on 30 November 2011, under the then OSCE chairmanship of Lithuania, to relaunch the negotiations.

The efforts of the Irish chairmanship

When Ireland took over the chairmanship in January 2012, it coincided with a change of leadership in Transnistria. The new leader Yevgeny Shevchuk replaced Igor Smirnov who had been in power for twenty years. The new leader adopted from the outset a less ideological and more pragmatic approach than his predecessor. This change of leadership brought significant momentum in the process with intensified dialogue between the two sides.

Our approach and the strategy we pursued as chair was guided by many of the principles which drove other post conflict peace processes, in particular the Northern Ireland case.

The first priority was to create a positive environment for the negotiations conducive for an open dialogue and for developing a relationship of trust between the chief negotiators from both sides Our second priority was to gradually build on the trust established through a policy of small steps Our third priority was to highlight the critical role that can be played by civil society organizations and the media in the ongoing Transnistrian settlement process.

Having experienced conflict and a difficult but ultimately successful peace process, the Irish chairmanship felt it was important to share this experience. This led to a number of interactive events organized by the Irish chairmanship during the course of 2012 to make people more aware of the Northern Ireland experience.

With this in mind we invited the chief negotiators from both the Moldovan and Transnistrian side to visit Ireland and explore together the Northern Ireland peace process. During the four day trip to both Dublin and Belfast, they were able to hear at first hand of the patience and perseverance that the peace process required; and that work must be based on a relationship of trust and partnership, on an ability to step into the shoes of the other and to view things from the other's perspective. The advice that first minister of the Northern Ireland executive Peter Robinson gave to the chief negotiators when he received them was a powerful message in itself: that to achieve a peaceful settlement, both sides must want to reach an agreement and that their most difficult challenge will be to convince not their opponents, but their own constituency of the agreed settlement.

While in the Northern Ireland conflict the biggest pressure for an agreement was a desire to end the violence, in the case of Moldova and Transnistria, it could be argued that the only pressure comes from the economic dimension. Indeed it would be an important element in the debate if some effort were made to estimate the cost of reintegrating Transnistria into Moldova with a special status, and to compare that with the cost of maintaining the status quo. This could be an important contribution to the process from the academic community and civil society, with the basic premise being to determine whether enough people believe that their self-interest would be better served by change rather than by maintaining the status quo.

During the course of the year, Ireland chaired five rounds of negotiations, Our first formal round of negotiations held at the end of February 2012 took place in Farmleigh house – a grand domain in the middle of the appropriately named phoenix park, originally belonging to the Guinness family and now owned by the state. Although a short distance from the heart of Dublin city, its secluded location in bucolic surroundings with cows and donkeys grazing

in the nearby fields provided the ideal setting for intensive talks. The following three rounds were held in Vienna in the marmolsaal – a ceremonial but intimate hall graciously put at our disposal by the Austrian foreign ministry and during which several important steps were agreed. The magnificent frescoes decorating the ceiling which depict milestones in Europe's history such as the Congress of Vienna, provided suitable inspiration for the negotiators sitting around the horse-shoe table below, hoping to emulate similar successes.

The most significant steps were taken at the April round with the agreement on the principles and procedures for the conduct of the negotiations. These are the basic ground rules for the negotiating process such as the recognition of equality of the sides in the negotiations, as well as the principle that 'nothing is agreed until everything is agreed'. A number of these rules are similar to those agreed in the Northern Ireland peace process that led in 1998 to the Good Friday agreement. The agreement reached at the April round on the 'principles and procedures' was an important breakthrough in this respect and enabled us to move forward with greater confidence in subsequent rounds. Patience however remained of the essence. And as we advanced, the pace got noticeably slower, partly due to conflicting signals coming from Moscow and uncertainty as to Russian intentions on the degree of autonomy it would allow to Transnistria in the negotiations.

Another important agreement reached at the same session was the agenda for the formal negotiating process. The agenda was broad and non-exhaustive; it provided for the taking into account both of the previous agreements between the sides (over 150 agreements, but for the most part unimplemented) as well as the ongoing work of the eleven expert working groups. The agenda divided the topics for negotiation into three baskets:

- socio economic issues;
- general legal and humanitarian issues and human rights;
- comprehensive settlement, including institutional, political and security issues.

As these negotiations in the 5+2 framework were continuing, there were in parallel significant developments taking place on the ground, with frequent meetings between both Prime Minister Filat and Mr Shevchuk. One of the first agreements reached between both leaders was for the resumption of rail freight services between Chisinau and Tiraspol. Further agreements were also discussed, such as in the telecommunications and transport areas – all aimed at removing obstacles which continue to impede free movement between both sides while building confidence. Both leaders understood that progress in these areas would demonstrate to the communities on both sides of the river the advantages of working together, thus creating a sense of ownership

in the process and highlighting the economic benefits which could accrue to each side.

Perhaps these early successes in the process led us to unduly raise our expectations on what could be achieved. But for whatever reason, there is no doubt that the momentum slowed down during the second half of the year. There was a noticeable hardening of positions, particularly on the Transnistrian side, with Russia no doubt worried that events were moving too rapidly and that it was losing control. This resulted in some frustration on the Moldovan side and a lack of flexibility on a number of practical issues just when it was most needed.

There is no doubt that broader security and geo-strategic considerations also impact on the overall atmosphere. These are very much linked to the geographical location of Moldova, on the crossroads between eastern and western influences. On the one hand, the pro-European agenda of the current Moldovan government is bringing some tangible results, with an association agreement with the European Union expected to be signed during this year, while negotiations for a deep and Comprehensive free trade agreement (similar to that negotiated with Ukraine), to which Transnistria has been invited to take part, are well advanced. On the other hand, Russia is attempting to woo the region towards the yet to be established Eurasian union, while using Moldova's dependence on Russian energy supplies to exert pressure.

By the September round, we had managed to open not only the first basket, but also the second one, where agreement was reached on practical steps such as the establishment of a group focusing on human rights issues as well as the creation of a platform for civil society and media dialogue. As we reached the end of the year our approach remained that of pursuing the policy of small steps in all three baskets. Alas, the third basket remained by the end of our chairmanship unopened (see below).

The final round in November, which lasted for three days, in contrast to the traditional day and a half, also took place in Farnleigh house. As before, both chief negotiators were lodged in the residence itself, allowing once again for ample interaction both during and after the formal sessions. All the other participants were lodged in a nearby hotel.

Location can be very helpful in creating the right environment for a positive mood and a more productive dialogue. It also facilitates the task of the chair who can more easily guide the process and pre-empt any possible difficulties. In this respect, it is an imperative in negotiations for the chair to ensure, in particular during the early rounds, that each side is given ample time to outline its position on different issues, even if it means listening to long and at times repetitive speeches. Patience is an essential ingredient for a successful chairmanship, through which he or she establishes an atmosphere of trust and can more easily steer the negotiations towards points of agreement, however small the steps may be.

Despite the outward signs of dialogue, we were aware of the deep rooted prejudices that had festered over the years. It was thus important to tread cautiously, particularly in the early stages. As the Tanaiste (deputy prime minister) and chair-in-office, Eamonn Gilmore, said when he formally opened the negotiations on 28 February, "what we aim for are small incremental steps, rather than a giant leap forward. It is these incremental steps that will build trust in the overall process and enable both sides to advance with greater confidence on the road towards a settlement".

To help in achieving that goal, we decided to highlight the critical role that can be played by civil society organizations and the media. This aspect is, in my view, a necessary ingredient for any post-conflict peace process. The earlier the involvement of the media and of civil society, particularly at grass roots level, the greater the level of trust created and the broader the acceptance by the public of the final settlement.

This view is gaining ground internationally, as reflected in the Euro-Atlantic security initiative presented at the February 2012 annual security conference in Munich. The initiative included a call for the 'expansion of traditional diplomacy', by promoting a culture of dialogue to include civil society.

In the case of the Northern Ireland peace process, while at the grass roots level there was already in place a degree of cooperation between civil society organizations from the different traditions, at the political party level, the efforts to foster public consultation and include civil society during the negotiating process varied from one party to another. Many have suggested that in this respect the republican side was more advanced than the loyalist or unionist side. The regular consultations with local communities also played a critical role in obtaining acceptance by the public of the Good Friday agreement in the subsequent referendum, where the agreement received overwhelming support.

During my visits during the year to both Chisinau and Tiraspol in my capacity as special representative of the chair-in-office, we encouraged the authorities to engage with civil society organizations and the media in discussions. We emphasized that building a space of open dialogue at local level would help to overcome the prejudices that have developed on both sides of the river over the past twenty years. It was with this objective that we included it as a point for discussion at the September round of negotiations. The agreement to establish a joint platform for civil society and media from both sides was a welcome vindication for our efforts, subsequently recognized at the OSCE ministerial (see below).

And it was in response to a joint request made to us by both Prime Minister Filat and Transnistrian leader Shevchuk that we hosted a group of twenty civil society and media representatives in Reland in the autumn. These were representatives who came from both sides of the river, many of whom have

little opportunity to interact in their own environment. Despite this, they all participated in the visit with great enthusiasm, sharing their different points of view as well as many pints of Guinness.

During their five-day visit to Dublin and Belfast they heard first-hand from political party representatives as well as civil servants who were directly involved in the Northern Ireland peace negotiations and who continue to serve in various capacities in the implementation of the Good Friday agreement. The messages conveyed to the group at every stage of their visit underlined the key role of civil society and media in creating a bridge between political leaders and the people at local level to enable proper and regular communication. As the democratic unionist party member of parliament Jeffrey Donaldson, who received the group in Belfast, highlighted, if negotiations take place in secret without civil society supporting the process and media not able to report, this reduces the sense of ownership in the process and alienates the public.

During the visit the role of women in post-conflict peace negotiations, often sadly underestimated, was also underlined. The Northern Ireland women's coalition was the only political party of its kind to gain representation in the peace negotiations as well as being elected to the first legislative assembly. These courageous women who were part of this struggle for recognition were following in the footsteps of others before them involved in other post-conflict peace processes, such as in South Africa.

Finally, what was particularly revealing to the group in both Dublin and Belfast was listening to personal testimonials of former prisoners from both the loyalist and republican traditions now working together at local level in joint projects to bridge the continuing divide between neighboring communities. They also play an important role in reducing tensions at critical periods such as during the summer parade season. The trust they build up at local level can be often greater than the efforts of more distant politicians.

The acceptance by all 5+2 participants of the important role to be played by civil society and media in the Transnistrian settlement process is particularly relevant, bearing in mind the very low level of public interest in the region with the Transnistrian conflict. This is particularly the case on the right bank of the river, with most opinion polls in Chisinau showing the issue rated last on a list of priority topics of interest for the Moldovan public. Twenty years with nothing much happening has created its own 'comfort zone'. Developing and fostering a space for civil society and media dialogue will certainly help to fill that void.

OSCE efforts

Successive attempts have been made at the annual OSCE ministerial meetings to have a statement on the Transnistrian conflict adopted. The last ministerial statement, which dealt with Moldova goes back to the 2002 ministerial meeting in Portugal. Linkages with other issues which some participating states insisted upon invariably killed any proposed statements. On the one hand, Russia would contend that a statement on the Transnistrian settlement process would have to be accompanied by a statement on the conflicts in the Caucasus, knowing that there was no hope of consensus in that respect, while on the other, Moldova would insist on a reference to the commitments on Russian troop withdrawals from the region adopted at the 1999 OSCE Istanbul summit (apart from the troops, there is an estimated 20,000 tonnes of ammunition stored in a Soviet era warehouses in Transnistria still awaiting removal).

Thus, at the Vilnius ministerial in December 2011, despite the relaunch of the negotiations in the 5+2 framework, the attempt at reaching a consensus on a ministerial statement on Transnistria failed, for the above reasons.

A similar fate was highly likely at the Dublin ministerial meeting a year later. However, thanks to some deft diplomacy and the fact that no one could deny the considerable progress achieved during the course of the year, the ministerial meeting adopted a statement 'on the Transnistrian settlement process in the 5+2 format'. The fact that it was the first such statement in ten years was a significant achievement for the Irish chairmanship.

The statement reaffirmed strong support for 'a negotiated, comprehensive, just and viable resolution of the Transnistrian conflict based on the sovereignty and territorial integrity of the republic of Moldova with a special status for Transnistria that fully guarantees the human, political, economic and social rights of its population'. It encouraged the 'advancement of the negotiations on all three baskets of the agreed agenda'. This is a critical element in view of the reluctance of both Transnistria and Russia to allow negotiations to focus on the comprehensive settlement issues contained in basket three. The statement also welcomed the 'recognized complementary role of civil society and media from the sides in the settlement process'. This ministerial statement was without doubt an important encouragement to the process.

The biggest challenge has been to convince the Transnistrian side, supported by Russia, to allow the negotiations to move into basket three issues. Up to now it has refused any such discussion, arguing that the priority must remain on finding solutions to the obstacles in the socio-economic area. In addition, Russia continues to insist that until such time as Moldova gives up on its 2005 law which sets out principles of resolving the conflict, there is no point in opening a discussion on comprehensive settlement issues.

To help in overcoming this dilemma, the Irish chairmanship decided to offer a 'food for thought' paper, drawing on its own experience in the Northern Ireland peace process. In that example, a 'framework document' agreed between the UK and Irish governments was introduced into the process at an early stage. Those involved in the negotiations from both the republican and loyalist parties are unanimous in their view that this document, which set out a proposed road map towards a comprehensive final settlement as well as the possible content of that settlement, played a crucial role in helping them reach the good Friday agreement.

With this in mind, we presented our 'food for thought' paper to all the participants at the final round in November. We presented it without prejudice to the positions of the participants, as a possible guide for a way forward in the process. It will now be up to the Ukraine chairmanship and to the participants in the 5+2 process to determine whether to use it. We hope they will.

At the final round under the Irish chairmanship in November, we recalled that, based on our own experience in the Northern Ireland peace process, it was often easier to resolve issues in one particular area if they are viewed as part of a broader context. We suggested that the longer the delay in opening a discussion on basket three issues, the bigger the obstacle becomes. These arguments did not convince neither the Transnistrian nor the Russian delegations. So it was up to the Ukraine chairmanship to resolve this 'Gordian knot'.

Ukraine assumed the OSCE Chairmanship on 1st January 2013. The Ukraine Chairmanship got off to a slow start with the appointment of a new relatively inexperienced Foreign Minister just a few weeks before the Chairmanship started. It also chose not to follow the Irish Chairmanship model of having two Special Representatives for the protracted conflicts – one for the Transnistrian settlement process and one for the Caucasus. Instead it nominated just one Special Representative to cover all protracted conflicts.

However valid the reasons for this decision may be, it puts a heavy burden on one individual and underlines a weakness in the OSCE conflict resolution system. To achieve any substantial progress in an ongoing negotiation process, such as in the case of the 5+2 process for Transnistria requires the attention of a full time Special Representative who can undertake extensive work on the ground in between the formal rounds of negotiations.

Up to August 2013, there have been three formal rounds of the 5+2 process, one in Ljov, one in Odessa and the most recent one in Vienna. The next round is scheduled for October in Brussels. If last year's rhythm of meetings is to be followed, a fifth round under the current Chairmanship should take place before the end of the year.

Judging from the reports and official statements so far, there has been little if any progress in the talks. Even allowing for the political developments in Moldova itself, which resulted in a change of leadership of the Government

with the appointment of the former Foreign Minister Leanca as the new Prime Minister, there is no doubt that much of the momentum achieved during the course of last year has been lost. The number of bilateral meetings at leadership level has decreased dramatically while the tone of the exchanges between Chisinau and Tiraspol have become sharper.

This negative atmosphere has also been reflected in the 5+2 talks themselves, with difficulties over agreement of the agenda for each round. While all three baskets remain on the formal agenda, both Russia and Transnistria refuse to embark on the political settlement discussions under Basket three. Even on the freedom of movement issues, practical proposals aimed at enabling a freer flow of vehicles, goods and people between both sides remain unresolved.

Meanwhile as Moldova is moving ahead with some success in its European integration strategy, Transnistria is reinforcing its determination to move even closer to Russia. In July, the Transnistrian leadership announced plans for a phased inclusion in the Russian inspired Eurasian integration process. Russia is naturally enough actively encouraging this Transnistrian approach.

The ensuing dilemma regarding the longer term perspectives for both sides in the conflict will be brought into sharper focus in November at the Summit in Vilnius which will bring together the six countries, including Moldova and Ukraine, that are part of the EU's Eastern Neighbourhood Programme (the other four being Georgia, Armenia, Azerbaijan and Belarus). The Summit is expected to confirm the Association Agreement including its Deep and Comprehensive Free Trade Area with Moldova, for which negotiations have been successfully completed. Together with visa liberalization, where Moldova is well advanced in the reforms required, the Summit will mark a significant achievement for Moldova. The EU has promoted efforts aimed at encouraging Transnistria to be part of this process, but with little success so far.

Sadly the civil society dimension of the Transnistrian settlement process has also suffered. The Transnistrian authorities have made clear their intention to introduce controls over civil society similar to those decreed by the Putin administration in Russia. This will seriously curtail interaction between civil society organizations from both sides of the river, at a time when it is most needed.

With prospects for some breakthrough increasingly unlikely, the contribution from civil society in coming forward with proposals for a final settlement could make an important difference in rebuilding momentum.

Suggested a way forward

The challenges facing the negotiating process underline the absence of several crucial elements before the process can be anywhere close to a successful conclusion.

An analysis of other post- conflict peace processes, such as in South Africa or Northern Ireland, shows that there are several basic principles essential for success. Even allowing for each conflict requiring a unique approach, such an analysis helps to understand the critical importance of these basic principles, and how the absence of any of them can influence the outcome.

Some of these principles may appear obvious, but they are not necessarily a given and cannot be taken for granted:

- The importance of dialogue between the parties in conflict;
- The desire of both parties to reach a final settlement;
- The role of personalities in driving the process forward (the duo of Nelson Mandela and F. W de Klerk, or John Hume in Northern Ireland come to mind);
- The need to build a relationship of trust between the main parties negotiating, a relationship where each may not share the views of the other but will nevertheless respect those views;
- Ensuring transparent and regular communication to the respective constituencies, in particular to grass roots civil society organizations and to the media, thus building confidence in the process by providing for their involvement at an early stage;
- The importance of a road map towards achieving a final settlement (such as the framework document in the Northern Ireland peace process);
- The importance of emphasizing the economic benefits of achieving political stability and a successful post-conflict peace process; this would be particularly relevant in the Transnistrian settlement process;
- That a post-conflict peace process does not end with the agreement reached, but requires continuing and painstaking work in ensuring implementation at both leadership and local level;
- That a process of reconciliation, often viewed as the “unfinished business” of a peace process, must be seen as an integral part of post-conflict peace building;
- Above all, the need for patience and perseverance.

These principles taken together emphasize the necessity of a comprehensive approach towards conflict resolution in any post-conflict peace process to ensure a successful outcome.

If one applies the above list to the Transnistrian negotiations, the one aspect which stands out the most is the absence of a 'road map'. This has no doubt contributed to the current blockage in moving the negotiations into basket three.

It is all the more ironic considering that all the international actors involved in the process are united at least officially as to the ultimate goal of the comprehensive settlement, a point confirmed by the above mentioned OSCE ministerial statement. Yet because they invariably differ on the tactics and the journey required to achieve that goal, the absence of a 'road map' is even more keenly felt.

The annexation of Crimea by Russia in March 2014 and the unfolding crisis in Ukraine has had an direct impact on the Transnistrian settlement process, as well as on the security environment of the broader region. Subsequent attempts by Russian-backed rebel fighters in the Eastern Ukraine to seize control of the port of Mariupol raised fears that Russia's strategy was to create a direct territorial link to Crimea and beyond to Odessa and even to Transnistria. The flare up of deadly violence in Odessa in early May, the worst the former imperial city had witnessed since the First World War, added to the fears of contagion.

It is worth recalling that Russia's more assertive foreign policy in the region was evident even before the annexation of Crimea with its embargo on Moldovan products during 2013. This was a crude attempt to prevent the country signing up to the Association Agreement and Deep and Comprehensive Free Trade Agreement with the EU at the November 2013 Vilnius Summit. These actions by the Russian authorities, and the fact that Moldova remains heavily dependent on Russia for its energy supplies, were clearly part of the psychological warfare being waged against those countries Russia regards as part of its sphere of influence.

Transnistria meanwhile continues to enjoy autonomous trade preferences granted by the EU, even though it has so far refused to be part of the DCFTA. These trade preferences will lapse on 1st January 2016, which leaves one year for Moldova to try and convince the Transnistrian authorities on the benefits it will enjoy were it to be part of the DCFTA with the EU. The stakes are very high; failure to find a solution will mean a much deeper trench between Moldova and Transnistria and will make a final settlement for the conflict between both sides even more difficult.

In the Transnistrian settlement process itself, only two meetings of the "5+2" proceeded during the course of 2014. The other three meetings which had been planned so as to maintain the regular rhythm in the formal negotiating process, were postponed at the insistence of the Transnistrian side, under pressure from Russia. As a result, the momentum in the settlement process has been lost, despite the best efforts by the Special Representative appointed under the Swiss OSCE Chairmanship. With his mandate continuing under the

Serbian Chairmanship in 2015, the Special Representative will have a further opportunity to convince all the parties in the conflict, and in particular Russia, on the importance of regaining the momentum lost.

The prospects are not good. Russia will continue to use Moldova and the Transnistrian settlement process as a convenient battle ground to make its presence felt and to block Moldova's aspirations for European integration. Moldova meanwhile has yet to demonstrate it is serious about the much needed economic and political reforms for which it is receiving substantial EU assistance. It also needs to articulate its vision towards resolving the conflict with Transnistria in a manner which will provide a special status for the region within Moldova. This should be the first priority for the new government elected after the November 2014 general elections, and would be a fitting response to Russian tactics which are all about using Moldova and Transnistria as pawns in a broader geopolitical game.

Georgia vs. Abkhazia and Southern Ossetia

The conflict in and over Abkhazia¹

Sergey Markedonov

The dissolution of the USSR at the end of the Cold War brought new challenges to the Caucasus. The former republics of Soviet Transcaucasia immediately became international actors which identified their own national interests and foreign policy priorities. The formation of independent states in the South Caucasus has been accompanied by a search for new mechanisms to ensure regional security and enshrine new formats of international cooperation. The newly independent post-Soviet states are, however, not the only product of the collapse of the USST. One of the major consequences of this process was the appearance of entities that have also declared their independence and sovereignty but not obtained UN membership and full-fledged international recognition even though they were able to defend themselves through armed confrontation as well as bloody conflicts².

Abkhazia has become one of the most interesting cases of de facto statehood building in Eurasia. More than twenty years ago, in August, 1992, it was drawn into an almost 14-month-long conflict with the Georgian government and local paramilitary forces. Since 1993, September 30 has traditionally been celebrated in Abkhazia as Victory Day. On that day, the Abkhaz armed forces and volunteers from the Confederation of Mountain Peoples of the Caucasus drove the Georgian troops and militias out of most of the Abkhaz Autonomous Soviet Socialist Republic. For Tbilisi, that meant the loss of jurisdiction over part of its territory recognized de jure as formally belonging to it. For Sukhumi/Sukhum, in contrast, it marked the beginning of its campaign to secure international recognition. For the whole intervening period, Abkhazia's leaders pursued that objective in the face of controversial inter-action with the "mother state" and adverse external influences. In August 2008, Abkhazia obtained the first recognition of its independence. While the huge role played by Moscow in the transformation of the Georgia-Abkhaz conflict needs to be recognized, the "hand of the Kremlin" was not the core prerequisite for it. The most important reason for it was the desire of the Abkhaz elite to determine the status of the former Abkhaz Autonomous

1 A modified version of this chapter was published in *Abkhazia: Between the Past and Future* (2013). Ed. by Islam Tekushev, Sergey Markedonov and Kirill Shevchenko. Prague. Medium Orient, pp. 16-64.

2 For more detailed observation see: Markedonov, Sergey. *The Unrecognized States of Eurasia as a Phenomenon of the USSR's Dissolution* (2012) // Demokratizatsiya. The Journal of Post-Soviet Democratization, Vol. 20, no. 2.

Soviet Socialist Republic outside the framework of the Georgian independent state.

Political geography

Abkhazia is located in the north-western part of the southern slope of the Greater Caucasus and on the south-eastern coast of the Black Sea. Its capital, Sukhum (Sukhumi) serves as the administrative center of this 8,700 square kilometer territory. In the north-east, Abkhazia shares a border with Russia (the Black Sea coast of the Krasnodar region) and in the south-west it borders on Georgia (Samegrelo region). Most members of the UN regard the Abkhaz-Georgia border purely as an administrative one, rather than a true inter-state one.

The size and composition of the population of Abkhazia is difficult to ascertain and has often been disputed; the methods for estimating it are extremely sensitive and controversial. According to the last Soviet census (1989), held on the eve of the collapse of the USSR and the Georgian-Abkhaz armed conflict (1992-1993), the total population of the territory of the Abkhaz ASSR (Autonomous Soviet Socialist Republic) was 525,061 people (9.7% of the entire population of the Soviet Georgia), of whom 239,872 were ethnic Georgians (45.7% of the population), 93,267 were Abkhazians (17.8%), 76,541 were Armenians (14.6%), 74,913 were Russians (14.3%) and 14,700 were Greeks (2.8%). At various times, however, some of those ethnic groups were identified by different names. In the Soviet census of 1926, the three Kartvelian ethnic groups (Georgians, Megrelians and Svans) were listed separately (there were 41,000 Megrelians, 19,900 Georgians and 6,600 Svans). In subsequent censuses, the generic term "Georgians" was introduced and used to identify all three Kartvelian ethnic groups. As a result of the Georgian-Abkhaz conflict of 1992-1993, Abkhazia's population declined by almost a factor of three. According to the census data (collected from 21 to 28 February 2011), the population of Abkhazia is currently 240,705 people³. The country is home to 91 separate ethnic groups. The most numerous are the Abkhazians, of whom there are 122, 069 (50.71%); Russians, with 22,077 people (9.17%); Armenians, with 41,864 people (17.39%); and Georgians, with 43,166 people (17.93%). Only 3,201 people (1.33%) were recorded as Megrelians⁴. The data provided by Abkhaz statisticians

3 As a result of the armed conflict of 1992-1993 about 8,000 people were killed and 18,000 were injured. Approximately 200,000 people left the territory of Abkhazia. See more detailed observation: *Abkhazia Today. Europe Report N°176* – 15 September 2006. Brussels, pp.1,13.

4 *V Abkhazii podvedeny itogi pervoi perepisi [The results of the first census are summed up in Abkhazia]*. <http://abkhasia.kavkaz-uzel.ru/articles/198470/> (28-12-11).

raises many questions, however. It is questionable how, given the number of Abkhazians who left the republic between 1989 and 2011, the number of the ethnic Abkhazians has increased from 93,267 to 122,069. According to Georgian statistics, the total population of Abkhazia stood at about 179,000 people in 2003 and 178,000 in 2005⁵.

The Constitution of the Republic of Abkhazia (Apsny) describes it as “a sovereign, democratic State, historically established by the right of the people to self-determination.”⁶ As of December 2012, Abkhazia has been recognized as independent by six UN-member states (Russia, Nicaragua, Venezuela, Nauru, Vanuatu and Tuvalu). On September 17, 2008 Russia and Abkhazia signed a Treaty of Friendship, Cooperation and Mutual Assistance which provides for a Russian military and political presence in the Republic.

From the point of view of Georgian legislation, Abkhazia is considered an “autonomous republic” within the State of Georgia and an integral part of the Georgian state. Article 1, Paragraph 1 of the Constitution of Georgia emphasizes that “Georgia is an independent, unitary and indivisible state, as confirmed by the referendum held on March 31, 1991 across the country, including the Abkhaz ASSR and the former South Ossetian Autonomous Region, and the Act on the Restoration of the State Independence of Georgia on April 9, 1991.” Article 8 declares Abkhazian the official language in Abkhazia, and Article 5 establishes representation for Abkhazia in the upper chamber (Senate) of the Parliament of Georgia “after creating the territorial integrity of Georgia and proper conditions for the formation of local self-government.”⁷

Under Georgian Law, Abkhazia and South Ossetia are considered “the result of the military aggression of the Russian Federation”⁸. Georgia currently hosts a “government of the Autonomous Republic of Abkhazia”, which acts on Georgian territory and is recognized by Tbilisi as the only legitimate authority of Abkhazia⁹.

The origins of ethno-political conflict

There is no consensus on the question of the origins of the ethno-political conflict in Abkhazia either in scholarly literature or in the numerous policy-

5 *Statistical Yearbook of Georgia 2005* (2005). Department for Statistics, Tbilisi. Population, Table 2.1, p. 33.

6 *The Republic of Abkhazia: The Constitution of the Republic of Abkhazia* (in Russian). <http://dpashka.narod.ru/konstitut.html>.

7 *The Constitution of Georgia* (in English). <http://www.wipo.int/wipolex/en/details.jsp?id=7523>.

8 See the full text of The Law of Georgia “On Occupied Territories” (in English). [http://www.venice.coe.int/docs/2009/CDL\(2009\)004-e.asp](http://www.venice.coe.int/docs/2009/CDL(2009)004-e.asp).

9 On the activity of this Government see: <http://abkhazia.gov.ge>.

oriented reports devoted to its aftermath. According to Leila Tania, research director of the “Civil Initiative and the Man of the Future” Foundation, “unofficially the notion is circulated that the confrontation between the Abkhazians and Georgians is not as acute as, say, that between the Armenians and Azerbaijanis, and the enmity arose only in the course of the armed conflict and after it. Unfortunately, such a cursory look at the history and reality of the Georgian-Abkhaz conflict has become entrenched within a number of international organizations ... An idealized picture of the pre-war phase of the conflict is more common among Abkhaz and Georgian participants in the informal dialogue, which only reinforces this stereotype among the international actors engaged in the conflict resolution process.”¹⁰

The Abkhaz (self-identification “Apsua”) have long populated the Western Caucasus. They speak one of the languages of the Abkhazo-Adygeyan (West Caucasian) language group. Together with peoples of the western Caucasus to whom they are closely related (for example: the Abazins, Adygeyans and Kabardians [or Circassians]), they play an important role in the ethno-cultural development of the Caucasus. By the beginning of 19th century, the Principality of Abkhazia (the ruling dynasty Chachba/ Shervashidze) was a formal protectorate of the Ottoman Empire. Its incorporation into the Russian Empire began in 1810, and until 1864 it enjoyed de facto autonomy. The abolition of this autonomy gave rise to widespread dissatisfaction among the Abkhaz population. Consequently, as a result of the Lykhny uprising of 1866 and the Russian-Ottoman War of 1877-1878, many ethnic Abkhaz were expelled from the Russian Empire. According to some estimates, 60% of the region’s population in the mid-1860s were forced to leave¹¹. At the same time, serfdom was abolished in the Caucasus, making it possible for landless peasants from Georgia to emigrate and explore the empty and often abandoned neighboring territories. In 1877, the famous Georgian public figure and teacher Jacob Gogebashvili (1840-1912) described this process as follows: “Resettlement is, without a doubt, not temporary, but permanent. Abkhazia will never again see its sons”. Gogebashvili nonetheless stressed that “... the anguish and the lack of land in Samegrelo ... make it highly desirable for many Megrelians to resettle in Abkhazia.”¹² Meanwhile, the Russian imperial administration encouraged the resettlement of Christian peoples in Abkhazia (mainly Armenians, Greeks, Russians and Estonians). As a result, the

10 Leila Taniya, *Varianty strategii uregulirovaniya gruzino-abkhazskogo konflikt* [The variants of the Georgian-Abkhaz conflict resolution strategies] (2003). Central Asia and the Caucasus. No. 5, p. 51.

11 Brooks, Willis. Russia’s conquest and pacification of the Caucasus: relocation becomes a pogrom in the post-Crimean period 1995). In *Nationalities Papers*, no. 23(4), pp. 675-86.

12 Gogebashvili, Jacob. *Kem zaselit’ Abkhaziyu?* [With whom should Abkhazia be settled?] (1877) In *Tifliskii Vestnik* [The Tiflis Messenger], no. 209, September, 27.

early 20th century was a period of radical ethno-demographic transition in the region.

In the late 19th and early 20th centuries, the Sukhum district (created as a result of the conversion of the Sukhum Military Department in 1883) was part of the Kutaisi province and thus subordinated to the Russian Caucasian administration in Tbilisi. From 1904-1917, Gagra and the adjacent areas were included in the Sochi district of the Black Sea province (the smallest province of the Russian Empire). Following the collapse of the Russian Empire and the creation of the newly independent states on its former territory, the “Abkhaz issue” was a focal point in the clash of interests between the Bolsheviks, the Armed Forces of South Russia (the “White Movement” led by General Anton Denikin) and the Democratic Republic of Georgia. In the summer of 1918, Abkhazia was incorporated into the new Georgian state. This process was accompanied by repressive actions against the Abkhaz national movement and ordinary Abkhazians by the central authorities of Georgia and the Georgian armed forces (both the Army and the Georgian National Guard were under the command of General George Mazniev [Mazniashvili]). In March 1919, the People's Council of Abkhazia, the formation of which was decisively influenced by the central government of Georgia, adopted the Act on the Entry of Abkhazia into Georgia as an Autonomous Region. This act was then approved by the Constituent Assembly of Georgia. According to the 1921 Constitution of Georgia (Chapter 11, “Independent control”, Article 107) Abkhazia (Sukhumi region), Muslim Georgia (Batumi region) and Zagatala (Zakatal'skaya area) were recognized as “inseparable parts of the Georgian republic” and granted “autonomous government in local affairs.”¹³

The strict and sometimes repressive policies of Georgia's Menshevik government vis-à-vis ethnic minorities created sympathy for the Abkhaz people in Soviet Russia and within the Bolshevik movement. In March 1921, Abkhazia was proclaimed a Soviet Socialist Republic. In December of the same year, an agreement was signed between Georgia (which by that time had become Soviet), and the Abkhazian Soviet Socialist Republic. According to that document, Abkhazia became part of Georgia. Since then, Abkhazia has been considered a contractual republic. The Constitution of the Georgian Soviet Socialist Republic adopted by the First Congress of the Soviets of Georgia in 1922 said that, based on self-determination, it included: the Adjara Autonomous Soviet Socialist Republic, the South Ossetian Autonomous Region (Oblast) and the Abkhazian Soviet Socialist Republic. The Constitution of the USSR (1924) stated that “the autonomous Republics of Adjara and Abkhazia and the autonomous regions of South Ossetia, Nagorny Karabakh and Nakhichevan are represented in the Council of Nationalities by one repre-

13 *The Constitution of Georgia* (adopted in February, 21, 1921 by the Georgian Constituent Assembly) (in Russian), http://www.200.org.ge/documents/1918docs/rus/21_02_21.pdf. On March, 1922 four districts of the former Zagatala area became parts of Azerbaijan.

sentative.”¹⁴ In 1925, the Third Congress of the Soviets of Abkhazia adopted a constitutional plan involving a contractual relationship between Sukhumi and Tbilisi, but this document was rejected by the Transcaucasian Territorial Committee of the Bolshevik Party. Subsequently, the leaders of the Abkhaz national movement would call it “the first Abkhaz Constitution”. During the period of “perestroika” and the dissolution of the USSR, it became an important tool in the political and legal struggle for Abkhazia’s secession from Georgia¹⁵.

In 1931, the Abkhazian ASSR was created within the Georgian SSR. Under Stalin, the Georgian leadership pursued a strict policy of discrimination against the Abkhazian population. In 1937-1938, the Abkhaz alphabet was replaced by one based on the Georgian schedule and in 1945-1946 Georgian became the basic language of instruction in Abkhazian schools. Many Abkhaz toponyms were replaced by Georgian ones. “The policy of repression of the Abkhaz language and culture implemented by very specific persons of Georgian nationality (not only policymakers, but also ordinary people) promoted among the Abkhaz people the image of an enemy in relation to the mass of Georgian immigrants who possessed the same social privileges”, says Gia Nodia, a contemporary Georgian scholar and social activist¹⁶. The mass migration of the rural population from the inner regions of Georgia to the Abkhaz ASSR became state policy after the Central Committee of the All-Union Communist Party (Bolsheviks) and the Council of People’s Commissars (Sovnarkom) passed a Resolution “On Measures to Protect the Public Land of the Collective Farms from Being Left to go to Waste” (1939). In an explanatory note on the situation in the Georgian SSR, it was emphasized that “collective farmers and individual farmers could use large areas of vacant lands which were not cultivated by the local population due to the lack of manpower.”¹⁷

14 *Bor’ba za uprocheniye Sovetskoi vlasti v Gruzii. Sbornik dokumentov i materialov. 1921-1925* [The struggle for the Soviet power strengthening in Georgia. Collection of documents and materials] (1959). Tbilisi, p. 80.

15 On July, 23, 1992 the Supreme Soviet of Abkhazia abolished the Constitution of the Abkhazian Autonomous Soviet Socialist Republic within the Soviet Georgia and proclaimed the “restoration” of the Constitutional draft of 1925. See more detailed observation: Lakoba, Stanislav. *History: 1917-1989* (1999). In *The Abkhazians* (Hewitt G., ed.). Richmond, Surrey: Curzon Press, p.93.

16 Nodia, Gia. *Konflikt v Abkhazii: natsionalnye proekty i politicheskie obyazatel’sstva* [The conflict in Abkhazia: national projects and political obligations] (1998). In *Gruziny i Abkhazy: puti k primipeniyu* [The Georgians and Abkhazians: ways for reconciliation]. Moscow, p. 30.

17 Sagaria, E., Achugba, T. (ed.). *Abkhazia: dokumenty svidetelstvuyut. Sbornik materialov. 1937-1953* [Abkhazia: documents testify. Collection of materials. 1937-1953] (1992). Alashara Publishing House, Sukhum/Sukhumi, pp. 6-7.

Subsequently the discriminatory measures against the Abkhazian population were substantially mitigated, and education in Abkhaz and the Abkhaz media were revived. In 1978, during the process of adopting the Abkhaz ASSR Constitution, a compromise was reached: the Abkhaz language became, along with Georgian and Russian, a state language in the autonomous territory. In addition, special quotas to fill vacant positions in Party, government, administrative and economic bodies were also introduced. At the 11th Plenum of the Communist Party of Georgia (June 27, 1978), then First Secretary Eduard Shevardnadze publicly criticized the “excesses” of the Georgian Communists with regard to the “Abkhaz issue”¹⁸. The policy of ethnic discrimination had an extremely negative impact, creating among Abkhazian politicians and scientists the perception that even in the 1960s-1980s, the social and economic policies of the Georgian SSR were geared to ensuring the large scale resettlement of ethnic Georgians in Abkhazia with the aim of changing the ethno-demographic balance to the detriment of the Abkhaz people. Whereas in 1959, there were already 158,221 Georgians in Abkhazia compared with 61,193 Abkhaz, by 1970 the number of Georgians had risen to 199,955 while the number of Abkhaz was 77,276). In 1979, Georgians already constituted 43.9% of the population of the autonomous region (213,322)¹⁹. In this case, as it was rightly noted by the authors of an International Crisis Group report entitled “Abkhazia Today” (September, 2006), “the Georgian portion of the population of Abkhazia and society at large within the Georgian SSR perceived a number of ‘liberal measures’ enacted by the Brezhnev leadership directed at the Abkhazians as ‘discriminatory’ against the Georgians themselves. Abkhazians, being an autonomous ethnic minority, occupied about 67% of the administrative positions in the Abkhaz ASSR.”²⁰

Since the creation of the autonomous republic within the Georgian SSR, the Abkhazian population has periodically tried to ask for reconsideration of its status. In 1931, 1957, 1967, and 1977 the Abkhaz national intelligentsia prepared appeals to the leadership of the USSR in favor of secession from the Georgian SSR in order either to join the RSFSR or to form a separate Abkhaz Union Republic. The so-called “Letter of 130” (December 1977) was the last address to this effect directed towards the Kremlin before Gorbachev’s “perestroika” and the subsequent political liberalization that culminated in the collapse of the Soviet Union. However this initiative was rejected and its organ-

18 Kazenin, K. (ed.) *Gruzino-abkhazskii konflikt. 1917-1992* [The Georgian-Abkhaz conflict. 1917-1992] (2007). Europe Publishing House, Moscow, p. 27.

19 *Naselenie Abkhazii* [The population of Abkhazia], <http://www.ethno-kavkaz.narod.ru/rnabkhazia.html>. See also: Lezhava, Georgii. *Izmenenie klassovo-sotsialnoi struktury naseleniya Abkhazii* [The changes in the social structure of Abkhazia’s population] (1989). Alashara Publishing House, Sukhumi/Sukhum.

20 Abkhazia today..., p. 6.

izers were criticized by the Abkhaz Party Committee Bureau (on February 22, 1978) for promoting “erroneous nationalist views and calumny”,²¹.

Abkhazia: from Soviet autonomy to a de facto state

Thus on the eve of “Perestroika”, the Georgian and Abkhaz communities inside Abkhazia, as well as Georgian society as a whole, were ready to seize the opening provided by the weakening of the Kremlin’s administrative control and the subsequent political liberalization in order to move ahead with their nationalist aspirations. “The Abkhaz problem” became the main “political trauma” for post-Soviet Georgia. The struggle of the Georgian National Democrats for Georgian independence during the final years of the USSR coincided with, and proceeded in tandem with, the Abkhaz movement for ethno-political self-determination. The events of the late 1980s and early 1990s are considered, in post-Soviet Georgian historiography and political science, a period of national liberation for the Georgian people. During that period, the most important slogans, requirements and programs that became the basis for the political, legal and ideological development of post-Soviet Georgia were proclaimed. The ethno-nationalist slogans and appeals for the restoration of the political and legal continuity of the Georgian Democratic Republic (1918-1921), a state with extremely complicated and rather ambiguous relations with Abkhazia, was in sharp contrast to the rhetoric of the Georgian and Abkhaz national movements of the late 1980s. As a result, the start of Georgia’s national liberation expedited the self-determination of the Abkhaz people. The escalation of tensions was facilitated by the particularities of Abkhazia’s “political demography. In contrast to the Ossetians, whose ethnic homeland was not confined to South Ossetia (most of the Ossetian population of the Georgian SSR had lived outside of the South Ossetian Autonomous Region), the homeland of the Abkhaz was virtually identical with the territory of the Abkhaz ASSR (a further 2,000 Abkhazians live in Georgia’s autonomous region of Adjara). Unlike South Ossetia, in Abkhazia the “titular” ethnic group did not constitute a numerical majority. This created many difficulties for Abkhazia’s secession from Georgia even during the Soviet period. The Abkhaz national movement could not appeal to the “will of the majority”. As a result, its main task was to control “its own territory”, providing full political, social, economic and ideological domination inside of that area. However, in a situation where the largest community in Abkhazia (Georgians) supported the preservation of the territorial integrity of Geor-

21 Markedonov, Sergey. *Sovetskii Kavkaz v 1970-e: predchuvstviye grazhdaskoi voyny* [The Soviet Caucasus in 1970s: Premonition of civil war] (2007). In *Neprikosnovennyi zapas* [Emergency Reserve], no. 2(52), p. 54.

gia within the Georgian SSR, the Abkhaz movement needed an ally in order to implement its policy. In Moscow (initially the central administration of the USSR, then, following its dissolution, the Russian government), they found such an ally. For nearly six decades, the Abkhaz representatives had addressed their demands to Moscow but a new appeal to Kremlin, adopted on March 18, 1989 (when 30.000 people gathered for a rally in the village of Lykhny in the Gudauta district, the former residence of the Abkhazian princes), demanded a radically different approach from all previous ones. On the one hand, it echoed traditional pro-Soviet slogans such as the “Leninist principles of national policy.” On the other hand, the protesters discussed the “political, economic and cultural sovereignty” of Abkhazia. Moreover, this new appeal to Moscow fostered consensus between the Abkhaz oblast committee of the CPSU and representatives of the Abkhaz intelligentsia, who had been recently accused of “bourgeois nationalism” and “slandorous fabrications.” The creation of the “Aydylara” (Popular Forum) movement on December, 13, 1988 was the practical manifestation of that consensus. Nationalist discourse replaced all other causes in the public sphere and began to play a mobilizing and unifying role. Within the context of conditions conducive to political liberalization, the growing public activity in Abkhazia attracted unprecedented attention throughout Georgia. It accelerated the crystallization of the Georgian national movement, in that it significantly simplified its ideological development search for it. The “enemy image” fell into the hands of its leaders. In the space of a few months, the “communist-dissident” controversy in Georgia was replaced by the discourse of “national unity”²². It was then that the “Abkhazian separatism” movement became linked in the Georgian perception (both national leaders and public opinion as a whole) with Russian intrigues. This discourse did not make any serious distinction between the USSR and the Russian Empire, i.e. the various political forms or incarnations of Russian power. The tragic events of April 9, 1989 (the deployment of Soviet Army troops to disperse a peaceful demonstration on Tbilisi’s Rustaveli Avenue) and the Georgian-Abkhaz clashes in Sukhumi and other parts of the Abkhazian Autonomous Republic in July 1989 ensured the development of blood lines between Georgians and Abkhazians²³. Attempts

22 The Congress of People’s Deputies Commission (known as the Anatoliy Sobchak Commission) that investigated the Tbilisi violence of April 1989 brilliantly demonstrated this trend: “In those conditions the state and party leadership of Georgia faced the necessity to confirm its role of political and ideological vanguard and to follow the “Perestroika” principles in order to influence the public opinion preventing the gap between its status and realities on the ground. However, Georgia’s Communist Party leaders failed to provide a dialogue and effectively cooperate with society”. See: <http://sobchak.org/rus/docs/zakluchenie.htm>. Subsequent developments in Abkhazia and South Ossetia show the Communist leadership’s willingness to exploit nationalist rhetoric to preserve its positions.

23 During the violence in Tbilisi, 19 people were killed and 200 people were injured. During two weeks of riots in Abkhazia, 14 people were killed. See for detailed observations: *Gruzi-*

to preserve Georgian-Abkhaz “unity” within the existing Soviet political framework failed. A landmark event was the split of the Supreme Council of the Abkhaz ASSR in 1990 into the Abkhaz and Georgian factions. On August 25, 1990 the Abkhaz members of the Supreme Council adopted a “Declaration of State Sovereignty” and a resolution “On the legal guarantees of protection of statehood of Abkhazia.” Those documents were voided in turn by the Supreme Council’s Georgian members. The mass political split between the two ethnic communities was reinforced by referendums carried out by the Soviet authorities (on voting for a “renewed Union”), and by Georgia’s attempt to secede from the USSR by means of a referendum on the restoration of the national independence. The first referendum took place on March 17, 1991, and the second on March 31, 1991. The ethnic Abkhaz supported Moscow and Soviet policy almost unconditionally. For this reason, they participated in the first referendum and boycotted the second. Georgians living in Abkhazia, as well as their compatriots in the rest of Georgia, refused to take part in the vote on the future of the Soviet Union and instead participated in the referendum on the restoration of Georgian statehood. Those two referendums demonstrated to the Abkhaz leadership the need to maintain strong relations with allies other than Moscow, and for that reason they sought to secure the support of Abkhazia’s ethnic Russians, Greeks and Armenians²⁴. Abkhazia’s leaders cannot claim all the credit for the referendum outcome, however, as it was primarily the result of Georgian politicians’ collective failure to create a dialogue with their Abkhaz counterparts because of their commitment to radical ethnic nationalism, which included strong anti-Russian and anti-Armenian elements. This greatly strengthened the Abkhazian national movement in its desire to secede from Georgia. Facing Georgia and the largest community inside the Abkhaz ASSR – the Georgians – the Abkhazians in those circumstances could not count on ultimate success without the support of the region’s other ethnic minorities. Representatives of the Russian and Armenian communities of Abkhazia later played a significant role in the formation of this breakaway state.

In the last two years of the USSR (1989-1991), the Abkhazian movement could not be clearly classified as separatist, although it had been identified as such in Tbilisi since the early stages of political activity in the Autonomous

ya: *Problemy i perspektivy razvitiya* [Georgia: problems and perspectives of development] (2002). Russian Institute for Strategic Studies, Moscow. Vol. 1-2.

24 Thus in Abkhazia among 318,300 enlisted voters on March, 17, 1991 166,500 people (52,3%) participated in the referendum on the “renewed USSR”. At that juncture, ethnic Abkhazians constituted 17, 8% of the total population, including both voters and people with to right to vote. 98,6% of all Abkhaz voters who participated in the referendum (51,6% of the total figure) supported the integrity of the USSR. Representatives of the Russian and Armenian communities (Yuri Voronov, Albert Topolyan, Galust Trapizonyan, and Sergey Matosyan) played a significant role in the Abkhazia’s de facto state-building.

republic. On the one hand, the Abkhazian ASSR, along with the other autonomous communities of the Soviet Union, took part in the process of trying to obtain “sovereignty”. On the other hand, however, in 1989-1991 most Georgians were opposed to the Union state and wanted to destroy it, while the Abkhaz movement supported the territorial integrity of the USSR and was prepared to protect it. Vladislav Ardzinba (1945-2010), the leader of the Abkhaz national movement and since 1990 the Chairman of the Supreme Council of the Abkhaz ASSR, was a member of the parliamentary group “Union that Opposed the Secession of the National-State Formations.” Preserving the unity of the Soviet Union was seen in Sukhumi as a guarantor against ethno-political conflict and as a potential opportunity through which loyalty to Moscow could be parlayed into support for a higher status for Abkhazia. In this regard it is important to pay attention to the common argument among the Abkhaz leaders. To them, voting in favor of preserving the USSR gave them the right to secede from the newly independent Georgia after the dissolution of the Soviet state in December 1991²⁵.

At the same time, it would be incorrect to treat the Abkhaz movement as a blind adherent to and champion of the Soviet political system, as Georgian observers and political scientists sympathetic to Georgia both from Russia and the West did later²⁶. As current Abkhazian Deputy Minister of Foreign Affairs and political analyst Irakli Khintba rightly stated, voting in favor of the USSR “was not a values’ choice for the Abkhaz people.” It was “a tactical move which then made it possible to appeal to the relevant procedure of self-determination of the autonomous republics according to the existing Soviet legislation ‘On the procedure for solving problems related to the secession of a Union Republic from the USSR.’”²⁷

However, some attempts to use new non-Soviet approaches (ethnic quotas instead of majority rule principles) to halt the escalation of ethnic tensions were not so successful. In summer 1991, the Georgian and Abkhaz sides agreed on a draft electoral draft law which determined the distribution of parliamentary seats among the various ethnic communities for the election of the Supreme Council of Abkhazia. Twenty-eight seats were reserved for the Abkhazians, 26 for the Georgians, and 11 seats for all other ethnic groups. Elec-

25 Abkhazia today..., p. 7.

26 The most prominent example of that approach was the book by Svetlana Chervonnaya. See: Chervonnaya, Svetlana. Abkhazia-1992. Postkommunisticheskaya Vendee. [Abkhazia-1992. The Post-Communist Vendee] (1993). Mosgorpechat’ Publishing House, Moscow.

27 Cited in: Irakli Khintba: *Razval SSSR stal triggerom etnopoliticheskikh konfliktov na ego okrainah* [The USSR collapse triggered ethno-political conflicts in its border regions], <http://www.kavkaz-uzel.ru/articles/182478> (18-3-11). The Law mentioned here was ratified on April, 3, 1990. Article 3 of this Law gave the autonomous entities the right to determine their status within the Union Republic and the USSR as whole when the Union Republic seceded. For the full text of the Law (in Russian) see: <http://pravo.levonevsky.org/baza/soviet/sss0973.htm>.

tions under this scheme were held in October and December 1991. This practice was later criticized and blamed for promoting apartheid and discrimination. When trying to oppose his predecessor, Zviad Gamsakhurdia, Georgia's second President Eduard Shevardnadze reproached him for colluding with the Abkhaz nationalists. Be that as it may, the compromise in 1991 strengthened the Abkhaz side, as it confirmed if not privileged, then special status, as well as providing the Abkhaz with greater administrative capacity to influence the situation in the region. However, the compromise was shortlived, and the ethno-political split reemerged in stark fashion just after the opening of the new Supreme Council. This was because the parties had by then become the hostages of their maximalist demands. According to Bruno Coppeters, "both sides in practice were not ready to give up the dream of establishing their own exclusive control over the territory of Abkhazia."²⁸ At the end of 1991 and the beginning of 1992, new contradictions were added to the age-old inter-ethnic confrontations. On January 6, 1992, the first President of Georgia, Zviad Gamsakhurdia (1939-1993), was overthrown and power was transferred to the so-called War Council that was replaced in March of the same year by a ruling State Council. A cleavage developed within Georgian society between the supporters of the elected Head of State and the new leadership that initiated the return to Tbilisi of Eduard Shevardnadze, the former Communist Party of Georgia first secretary. This new division in one sense helped the Abkhaz leaders weaken the political potential of Tbilisi. It made it clear to them that it would be possible to implement a new agenda focused on the secession from Georgia after the dissolution of the USSR in December, 1991. On the other hand, it turned Abkhazia into a hostage of Georgia's domestic political confrontation. Consolidating the champions of Gamsakhurdia (Zviadists) and the supporters of Shevardnadze, who had no legitimacy, became possible by invoking the common enemy of "Abkhaz separatism". It is no accident that on July 24, 1992, 19 ethnic Georgian political parties and movements in Abkhazia were united in the "Council of National Unity of Georgia" which included in its platform a requirement to preserve the territorial integrity of the country. In August 1992, the State Council of Georgia issued a special "Manifesto of Great Reconciliation" addressed to the supporters of the overthrown president.

Against the background of the two political fractures in the first half of 1992, the Abkhaz leaders took a number of crucial steps towards creating the foundation for their own statehood. They unilaterally provided for the transfer of Abkhazia's militia (law enforcement forces), military units, enterprises, administrative structures and their staff to their own political jurisdiction. At the same time, they secured the preponderance of ethnic Abkhazians (Abkhaz Interior Minister Givi Lominadze, an ethnic Georgian, was dismissed and

28 Coppeters, Bruno. *Federalizm i konflikt na Kavkaze* [Federalism and the Conflict in the Caucasus] (in Russian) (2002). Moscow Carnegie Center, Moscow, p. 24.

replaced by an ethnic Abkhaz, Alexander Ankva). The Regiment of Internal troops of the Supreme Council of Abkhazia was created. In response to these steps, the leaders and activists of the Georgian community in Abkhazia formed their own militias, such as the local units of “Mkhedrioni” (“Horsemen”) and others. In this period, paradoxically, the Georgian authorities helped the Abkhaz side. As Abkhaz historian Timur Achugba correctly observed, “radical views on the political status of Abkhazia were aggravated after the Military Council of Georgia annulled on February 21, 1992 all Soviet-era legislation enacted since February 25, 1921, including the Constitution of the Georgian Soviet Socialist Republic in 1978.” Instead the Constitution of 1921 was restored, which contained a paragraph about the “autonomous government” in Abkhazia in local affairs but did not consider it an entity with any special political and legal status similar to that which the Abkhaz ASSR had been accorded in the 1978 Constitution. According to Achugba, “the act of the Georgian political elite was perceived as the actual abolition of Abkhazia’s statehood.”²⁹ On July 23, 1992, the Supreme Council of Abkhazia put forward a decision to abolish the Constitution of the Abkhazian Autonomous Republic within the Georgian SSR and replace it with the constitutional project of 1925. This decision spurred Tbilisi to use force, and on August 14, 1992 the troops of the State Council of Georgia entered the territory of Abkhazia. This ethnic conflict developed into an armed conflict between the Georgian state (and Georgian community in Abkhazia) on the one hand, and the breakaway territory on the other.

The Georgian-Abkhazian Armed Conflict

A detailed analysis of the Georgian-Abkhaz military confrontation (1992–1993) is not among the objectives of this report. The war will be discussed only in the context of the evolution of the ethno-political conflict in Abkhazia. The Georgian-Abkhaz armed conflict has been interpreted differently by both sides. From Georgia’s point of view, it was a struggle with a criminal separatist regime. According to Eduard Shevardnadze, who was personally responsible for the military solution of the “Abkhaz issue”, an ethno-cratic dictatorship had been formed in Abkhazia by the summer of 1992 and this development necessitated urgent military engagement. In contrast, the wide-

29 Achugba, Timur. *Etnopoliticheskaya situatsiya v predvoennoi Abkhazii (Konets 80-h nachalo 90-h gg. XX veka)* [The ethno-political situation in pre-war Abkhazia (late 80s-early 90-s of the XX-th century)], <http://kvkz.ru/history/2439-yetnopoliticheskaya-situatsiya-v-predvoennoj-abkhazii-konec-80-x-nachalo-90-x-gg-xx-veka.html> (27-6-10).

ly-held Abkhaz viewpoint sees the events of 1992-1993 as the “Great Patriotic War of the Abkhaz people.”³⁰

In the course of the armed conflict, the Abkhaz elite solved several important problems. First, it desired to preserve and protect an area which could constitute the core of an effective administration and military headquarters outside Georgian control. Second, it sought allies both within the republic (among other ethnic communities) and outside. Third, it tried to create and promote internationally the legitimacy of the Abkhaz secession.

In contrast, the Georgian authorities were interested in swiftly suppressing the separatist challenge in order to focus first on strengthening the domestic legitimacy of the new power structure that had replaced Gamsakhurdia, and then on consolidating the fragmented society on a “patriotic basis”. Apart from Abkhazia, Tbilisi faced a similar standoff with the other breakaway region, South Ossetia. Shortly before the outbreak of the armed conflict in Abkhazia, Georgia, with the help of Russia, negotiated and signed a ceasefire agreement in South Ossetia, the autonomous status of which Gamsakhurdia had abolished. But Tbilisi failed to induce the Ossetian leaders to accept Georgia’s jurisdiction. In addition to the cease-fire, Georgia ceded part of its sovereign control over South Ossetia to the Joint Control Commission and the Joint peacekeeping forces, which consisted of Russian, Georgian, and Ossetian troops. In this regard, a successful operation in Abkhazia was meant to send a “clear message” to the other “rebellious autonomy”. It allowed for the creation of a policy platform meant to politically and psychologically pressure the leaders of the South Ossetian national movement.

Initially, the Georgian-Abkhazian conflict resulted in a military success for the Georgian side. Sukhumi, the capital of Abkhazia, was captured. Even though Tbilisi controlled most of Abkhazia’s territory, including Sukhumi, from the summer of 1992 until the summer of 1993, the Abkhaz leadership managed to create an effective political and military center for their breakaway republic in the small town of Gudauta, which stands at the center of the district of the same name³¹. In 1992-1993 Abkhazia had no clear support from Russia, which itself was being wracked by separatist conflict (primarily in Chechnya), and was therefore not ready to defend the position of the Abkhaz side. Political analyst Oksana Antonenko characterized Russia’s policy toward Georgia and Abkhazia during this period as “multi-polar”.³² In this

30 *Belaya kniga Abkhazii: Dokumenty, materialy, svidetelstva* [The Abkhazia’s White book: Documents. Materials and testimonies] (1993). Moscow.

31 During the first months of the conflict, the Abkhaz leadership controlled only a small tract of territory around Gudauta, Tkvarcheli and several villages in the Ochamchira district. On October, 1992, it retook control over the Gagra district (north-east of Abkhazia).

32 Antonenko, Oksana. Uncertainty: Russia and the Conflict over Abkhazia (2005). In *Statehood and Security: Georgia after the Rose Revolution*, Coppieters B. and Legvold R. (eds). Cambridge, MA, pp. 208-217.

case, the Russian military establishment in particular was sympathetic to the Abkhaz side due to its negative attitude to Georgian leader Shevardnadze. They attributed the forced withdrawal of Soviet Army troops from Germany, the change of the official political position of the USSR in Central and Eastern Europe, and eventually the collapse of the Soviet Union to Shevardnadze's actions and policies while Soviet Foreign Minister.

The Confederation of Mountain Peoples of the Caucasus (CMPC) was active in the Georgian-Abkhaz conflict, as were the armed formations of the ethno-national movements in the North Caucasus. The CMPC was created on November 1-2, 1991 on the basis of the Assembly of Mountain Peoples established in August 1989. The CMPC was led by Musa (Yuri) Shanibov and Yusuf Soslambekov, who had been one of the main figures in the "Chechen revolution" of 1991. The ideology of the Assembly and subsequently the Confederation of Mountain Peoples of the Caucasus evolved along similar lines to those of other nationalist movements in the former Soviet Union. In the first phase, national and cultural goals and objectives (the revival of traditions, religion, etc.) dominated. Later, they were replaced by more pressing requirements for the recognition of the political status of a particular ethnic group or territory. The CMPC called for the revival of the single Mountainous Republic within the Russian Confederation. Later, the CMPC espoused separatist principles and it included in its membership people who had participated in the fighting in South Ossetia before 1992. It is thus hard to overestimate the role of volunteers from the North Caucasus in Abkhazia. During the 14 months of the armed conflict in Abkhazia 2,500 Circassian volunteers took part in the fighting. Sultan Sosnaliyev, a ethnic Kabardian, was Chief of Staff and then Defense Minister of Abkhazia during the conflict, and again from 2005-2007. Kabardian groups led by Muayed Shorov attacked the building of the Council of Ministers of Abkhazia, where the pro-Georgian administration had its headquarters. The Abkhaz separatists were supported by the Chechen separatists. On August 17, 1992, the CMPC held a parliamentary session in Grozny, the Chechen capital, during which delegates put forward the political slogan "Hands off Abkhazia". Shamil Basayev, later to become a prominent Chechen field commander, first gained notoriety during the Abkhaz conflict in which he commanded a unit of about 5,000 fighters. In addition to this military aid from the North Caucasus, the Abkhaz side was also supported by most representatives of the republic's other ethnic minorities. Ethnic Russians fought on the Abkhaz side, and the Marshal Baghramyan battalion consisted of ethnic Armenians. On the other hand, a small number of Armenians fought on the side of Georgia. However, most of them were from other regions of Georgia and their engagement was both less structured and less well known in terms of propaganda. Thus, the ethno-military

composition of the Georgian-Abkhazian conflict was far more varied in comparison with the Georgian-Ossetian or Armenian-Azerbaijani conflicts³³.

The significant involvement of ethno-nationalist movements from the North Caucasus in the Georgian-Abkhazian armed conflict spurred Moscow to take more decisive action to end the confrontation. In September 1992, a meeting of the leaders of Georgia, Abkhazia and the North Caucasus republics, with the active participation of the Russian Federation, was held and a commission for restoring security in the region was created. However, this peace initiative did not achieve any concrete results due to the lack of a clear and precise procedure for implementing the decisions it adopted. October 1992 saw a turning point in the armed conflict, as the Abkhaz side seized the military initiative and began to extend its control over the north-west of the republic. Abkhaz forces captured Gagra on October 6 and reached the border with Russia on the river Psou shortly afterwards. On July 27, 1993, Russia mediated the signing between the two sides in Sochi of an agreement on a cease-fire and the mechanisms for its implementation. In fact, the implementation of the Sochi agreement would return the region to the situation in summer 1992, i.e. before the military confrontation started. The Sochi agreement did not contain any proposals on the future political and legal status of Abkhazia, which was the issue that triggered the Tbilisi-Sukhumi disagreements in the first place³⁴. The Abkhaz side was not satisfied with these conditions and attacked the Georgian positions in September 1993, inflicting a definitive defeat on the Georgian armed forces. The Abkhaz offensive coincided with a rebellion by supporters of ousted President Gamsakhurdia in West Georgia (Samegrelo). Not having a reliable rear flank in Samegrelo, the Georgian armed forces were unable to effectively counter the Abkhaz attack. As a result of the Abkhaz offensive and the virtually unilateral violation of the Sochi agreement, Georgia lost control over Abkhazia with the exception of a small area in the upper reaches of the Kodori Gorge (the Dal Gorge, sometimes called the Abkhazian Svaneti). Abkhaz forces secured control of that district of the gorge only in August 2008. The active military confrontation ended in the fall of 1993, although sporadic clashes took place in 1994 in both the Gali region and the Kodori Gorge. In April 1994, the Russian-mediated "Declaration on Measures for a Political Settlement of the Georgian-Abkhaz conflict" was signed, and in May of that year the Georgian and Abkhazian leaders appealed to CIS (Commonwealth of Independent States) Council of Heads of States asking for peacekeeping forces to be deployed in the conflict zone. In July 1994, a Russian peacekeeping operation got under-

33 Cheterian, Vicken. The Face of the Caucasus (2000). In *Armenian International Magazine*. Vol. 5, no. 3.

34 Although the Abkhaz side was responsible for violating this agreement, the Georgian side too failed to implement its conditions, in particular concerning the full withdrawal of military forces).

way in Abkhazia. Although many thought that other CIS member states would make troops available, in fact the operation, which lasted until August 2008, was exclusively Russian. Peacekeepers were deployed in a 12-kilometer territory known as the “security zone” on both sides of the river Inguri that marks the boundary between the Gali district of Abkhazia and the Zugdidi district of Georgia.

Abkhazia’s leaders failed during the armed conflict to convince the international community of the legality of Abkhazia’s secession from Georgia. Indeed, they still have not done so today. Georgia’s territorial integrity is recognized by an absolute majority of the UN member states. Nevertheless, the UN has followed the conflict closely since it began in 1992 and from the outset it recognized Abkhazia as a party to the conflict. That was the approach subsequently followed by the UN Observer Mission in Georgia (UNOMIG)³⁵.

The armed conflict had disastrous consequences. Four thousand Georgians were killed and 1,000 disappeared. More than 3,000 Abkhazians lost their lives. The economic losses from the Georgian-Abkhaz conflict amounted to US\$10.7 billion. In the years immediately following the end of hostilities, 700 people were killed by landmines. Nearly 250,000 Georgians (nearly half the pre-war population) were forced to flee Abkhazia, of whom some 40,000-50,000 later returned to the south-eastern Gali district, which prior to conflict had been predominantly Georgian-populated³⁶. There was no mass return of refugees (or internally displaced persons, according to the viewpoint of the international community) to other parts of Abkhazia.

The peace process from 1993-2004: Failures and Successes

By October 1993, Georgia had lost its *de facto* sovereignty over most of the former Autonomous Soviet Socialist Republic of Abkhazia. The Russian-mediated Moscow ceasefire agreement signed in May 1994 also legally withdrew aspects of Georgian sovereignty over Abkhazia by placing the peacekeeping forces under the jurisdiction of the CIS Council of Heads of States. However, while the end of the military confrontation closed the book on one set of problems, it opened up a host of others. The two parties had different perceptions of the transitions that they had to make. The Abkhaz leaders had to make the transition from a military-political regime to normal civilian rule,

35 On July 21, 1994 the UN Security Council adopted Resolution No. 937 on the definition of the format of its Mission. The mandate of UNOMIG (121 observer) was based on the Moscow agreement on ceasefire on May 14, 1994. See more detailed information on UNOMIG activity: <http://www.unomig.org>

36 Abkhazia Today...

insofar as this was possible under conditions of destruction and blockade. Following the euphoria of victory, it was also critical that they establish elementary order to prevent the total criminalization of society and domination by warlords. In their pursuit of political independence from Georgia, Abkhazia's leaders began, from the first day after the end of the armed confrontation, building a legal framework upon which the formation of statehood could be based (this included the Constitution and the law on citizenship). The harmonization of interethnic relations within the country and the prevention of new ethno-political crises topped the post-war agenda. Additionally, negotiations on the future status of Abkhazia and the development of international contacts became priority directions for policy.

The Georgian side held the opposite view. With no money or resources for a quick military revenge, Tbilisi focused its energies on securing, at the international level, agreement on the "temporary" (suspended) status of Abkhazia and recognition of it as part of the united Georgian state. In addition, the Georgian authorities focused on pressuring Abkhazia economically to force it to make concessions.

The peace process developed on several levels. The first was within the framework of the UN, under whose auspices the first round of negotiations between the parties was held in Geneva, Switzerland from November 28 to December 1, 1993. The first round of that "Geneva process" (not to be confused with the "Geneva talks" on security and stability in the Caucasus launched in October, 2008 after the Russo-Georgian war) led to the signing in December 1993 by the Georgian and Abkhaz representatives of a "Memorandum of Understanding", in which they agreed "not to use force or threaten the use of force against each other for the period of ongoing negotiations to achieve a comprehensive political settlement of the conflict." In 1994, the UN Secretary General's Group of Friends for Georgia (which originally included the United States, Germany, Britain, Russia, and France) was founded. In 1997, a Special Representative of the UN Secretary General was appointed to coordinate the work of the Geneva process, and the UNOMIG opened an office in Tbilisi. The Coordination Council and three working groups, focusing respectively on non-violence, the return of displaced persons, and economic issues, operated within the framework of the "Geneva process". The last meeting of the Coordination Council was held in May 2006 after a nearly five-year break caused by the aggravation of the ethno-political situation in the Kodori Gorge in the fall of 2001. However, the violation in 2006 of the 1994 Moscow Agreement by Georgian military units that entered the upper part of the Kodori Gorge (a demilitarized zone under the terms of the 1994 agreement) ended the work of the Coordination Council. In 2001, the Special Representative of the UN Secretary General, German diplomat Dieter Boden, presented an eight-point peace project known as "Basic Principles for the Distribution of Competencies between Tbilisi and

Sukhumi” (also commonly known as the “Boden Plan”). This initiative was supported by the UN Security Council (Resolution No. 1393, January 31, 2002). The Plan was based on the principle of the territorial integrity of Georgia and it defined Abkhazia as “a sovereign entity based on the rule of law within the State of Georgia.” According to the Boden Plan, the borders of the State of Georgia as of December 21, 1991 could not be modified other than in accordance with the Georgian Constitution. The distribution of competences was based in accordance with a federal agreement between Tbilisi and Sukhumi having the force of the Constitutional Law. Boden himself insisted that his initiative “was not intended to offer ready-made solutions for the Abkhaz conflict. Rather, its objective was to invite the two sides to the conflict to sit down at the negotiating table and agree on modalities for a peaceful settlement”³⁷. The responsibility for the further implementation of the document clearly lay with the Georgian and Abkhaz leadership, while the UN would potentially be involved as a moderator and the UN Secretary General’s Group of Friends for Georgia would facilitate the process. However, at that time neither the Abkhaz side nor the Georgian side was ready to make use of this opportunity due to a lack of political will and unwillingness to compromise from both sides. The Abkhaz side was adamant in its rejection of any decision that placed them “in the state of Georgia”, while the Georgians were too sure of themselves to accept anything that hinted at the “sovereignty” of Abkhazia within Georgia, with each side convinced that time was in their favor and a drawn out process would allow them to achieve a solution with more favorable conditions. As a result, neither party embraced the peace plan.

The second set of peace efforts consisted of independent attempts by Russia to resolve the conflict. Faced with the Chechen separatist challenge, Moscow initially supported Tbilisi’s goal of restoring Georgia’s territorial integrity. In February 1994, Russia and Georgia signed a series of agreements that provided for assistance from Russia in the development of the Georgian army, the deployment of Russian border guards, and, most importantly, continued basing rights for Russia in Georgia. In 1994, Georgia joined the Collective Security Treaty (CST, which was signed on May 15, 1992) and entered the CIS. On November 26, 1994, Abkhazia’s Supreme Council (parliament) adopted a new Constitution, despite Moscow’s open opposition. Boris Pashtukhov, Personal Envoy of the President of Russia on the Georgian-Abkhaz conflict, repeatedly contacted Abkhaz leader Vladislav Ardzinba to insist that the Abkhaz side not go through with such a “hasty decision”.³⁸ After the out-

37 Dieter Boden on the peace-keeping difficulties in the South Caucasus, <http://www.caucasustimes.com/article.asp?id=20989>.

38 Lakoba, Stanislav. *Abkhazia de-facto ili Gruzia de jure? (O politike Rossii v Abkhazii v postsovetskii period. 1991-2003)* In Russian. [Abkhazia de-facto or Georgia de-jure?] (On

break of anti-separatist campaign in Chechnya on December 19, 1994, the border with Abkhazia on the Psou River was closed. From 1995-1997, Russia also operated a naval blockade of the breakaway republic and disconnected its telecommunications lines with the outside world. Meanwhile, Russia mediated a Protocol on the Georgian-Abkhaz settlement initialled on July 25, 1995 by Georgian Ambassador to Moscow Vazha Lordkipanidze and Republic of Abkhazia Attorney General Anri Jergenja in his capacity as Ardzinba's personal envoy. The second point of this agreement suggested the following proposal on the issue of Abkhazia's status: "The parties declare consent to live in a single federal state within the borders of the former Georgian Soviet Socialist Republic. Their relationship will be based on Constitutional law."³⁹ But the Abkhaz side rescinded its approval almost immediately, and on August 22, 1995, the Parliament of Abkhazia branded the document unacceptable for an independent state.

On January 19, 1996, the CIS Council of the Heads of State, in which Russia and Georgia played decisive roles, adopted a resolution "On measures to settle the conflict in Abkhazia, Georgia". It declared the termination of relations with the self-proclaimed republic in trade, economics, transportation, finance and a host of other areas. After Tbilisi announced the introduction of customs and border control on the territory of Abkhazia, Moscow blocked entry and exit for all foreign vessels at the port of Sukhumi. In 1997, the Russian Foreign Ministry proposed a formulation in which Abkhazia would exist as a "Common state" within the borders of the former Georgian Soviet Socialist Republic. This was registered in the new draft of the "Protocol on the Georgian-Abkhaz settlement." Thanks to intensive "shuttle diplomacy", then Foreign Minister Yevgeny Primakov convened a private meeting between Eduard Shevardnadze and Vladislav Ardzinba. But it proved impossible to reach a compromise, as Georgian officials in Tbilisi rejected any agreement based on the "common state" principle.

Russia's position underwent a significant evolution after 1998. This was facilitated by the Georgian government attempts to alter the status quo and "unfreeze the conflict" unilaterally without considering the interests of the Russian Federation, including one such attempt in May 1998 in the Gali district of Abkhazia. After the defeat of Russia in the first Chechen anti-separatist campaign, the official position of Tbilisi towards the leadership of the breakaway Chechen Republic Ichkeria, changed. Georgian leaders over-

Russia's policy in Abkhazia in the post-Soviet period. 1991-2003)] (2001). Slavic Research Center, Sapporo, p. 56.

39 Lepsaya, Abessalom. *Situatsiya v Abkhazii kak model zamknutogo obshchestva pri nalichii vneshnego faktora; factory, vliyayushchie na uregulirovaniye* In Russian. [The situation in Abkhazia as model of an isolated society influenced by the external factor: factors influencing the resolution process] (2004). In: *Aspecty Gruzino-Abkhazskogo konflikta* [Aspect of the Georgian-Abkhaz conflict]. Irvine, California. Vol. 4.

estimated “the weakness of Russia”, considering Russia’s military defeat in Chechnya in 1996 to be the beginning of a great geopolitical retreat from the Caucasus. In August 1997, then Chechen Republic Ichkeria President Aslan Maskhadov visited Tbilisi where he met with Zurab Zhvania, then Chairman of the Georgian parliament. Soon after this meeting, an Office of the Representative of the Chechen Republic of Ichkeria opened in Georgia. When Russia launched the second anti-separatist operation in Chechnya in 1999, Georgia opened its borders to Chechen refugees. About 7,000 people moved into the Pankisi Gorge⁴⁰. In addition to refugees, numerous combatant Chechen separatist groups and a number of influential field commanders (such as Ruslan Gelayev) found a “safe haven” on Georgian territory⁴¹. Tbilisi sought to restore its control over Abkhazia with the aid of those Chechen groups. Thus on September 25, 2001, Chechen rebels alongside Georgian units (a total of 450 people) tried to seize the Gulripsh district of Abkhazia after travelling 400 km across Georgia. However by mid-October this attack was repulsed.

The second consequence of Tbilisi’s reassessment of Russia and the perception of Russian “weakness” that it created was the intensification of Georgia’s contacts with NATO. In 1998, for the first time since the dissolution of the Soviet Union, a man with a Western military education (David Tevzadze) was named Georgia’s defence minister⁴². One of Eduard Shevardnadze’s main foreign policy slogans during his presidential election campaign in 2000 was his promise to “knock on NATO’s door” by 2005⁴³. In April 2002, the United States and Georgia signed the “Train and Equip” agreement on military cooperation, which was intended to cover the preparation of 2,000 Georgian commandos. The official purpose of the agreement was to prepare Georgian troops for an operation against Chechen “terrorists” encamped in the Pankisi Gorge. Russia, however, saw it as a move to “internationalize” resolution of the Georgian-Abkhaz and Georgian-Ossetian conflicts, and as a threat to Russia’s exclusive, preeminent position in the Greater Caucasus.

40 Markedonov, Sergey, Severokavkazskaya karta Gruzii [Georgia’s Map of the North Caucasus] (2010). In *Svobodnaya Mysl’* (Free Thought Journal). No. 12, pp. 49-64.

41 Commenting on this action for the “Rustavi-2” TV channel, Eduard Shevardnadze said: “According to some residents of the villages in Kakheti, Gelayev is a normally thoughtful, educated man, well disposed to Georgia”. See: *Shevardnadze ne schitaet Gelayeva banditom* [Shevardnadze doesn’t consider Gelayev a bandit], <http://www.lenta.ru/vojna/2001/11/08/shevardnadze/> [2001, November, 8].

42 David Tevzadze was trained in the NATO Defense College in Rome (1994), the Marshall Center in Garmisch-Partenkirchen (1995) and the U.S. Army Command and General Staff College in Kansas, USA (1996).

43 Kasayev, Alan. Shevardnadze postuchitsya v dver’ NATO lichno [Shevardnadze will knock on NATO’s door personally]. In *Nezavisimaya gazeta* [Independent newspaper], 11 April 2000.

All these factors contributed to a significant transformation of the Russian position on the Georgian-Abkhaz conflict. By 1999-2000, Moscow had relaxed the sanctions against Abkhazia, although they were finally lifted only in 2008. The distribution of Russian passports (a foreign model different from the domestic IDs) to the residents of Abkhazia drew the ire of Tbilisi and the West and was regarded by many as a component of the “creeping annexation” of Georgian territory by Russia. In the early 2000s, Russo-Georgian relations deteriorated sharply. In December 2000 Russia introduced visas for Georgian citizens, and in March 2001 the so-called “period of adjustment” for the new rules ended and the visa regime came into force. Bilateral relations were seriously poisoned by the unconstructive public rhetoric of both sides. At a meeting in Sochi in March 2003, Russian President Vladimir Putin and his Georgian counterpart Eduard Shevardnadze attempted to return to a more constructive bilateral relationship. Following this meeting, an agreement was signed that established three working groups: the first on the return of refugees/IDPs (originally in the Gali district); the second on the rehabilitation of the railway line between Sochi and Tbilisi via Abkhazia; and the third on the renovation of the Inguri hydropower plant. However, the subsequent deterioration of Russo-Georgian relations rendered implementation of those proposals impossible.

When discussing the failure of the peace process, it is necessary to stress that since 1993, the Abkhaz leadership had taken a number of steps to strengthen and institutionalize its *de facto* state institutions and independent political identity separate from the Georgian political and legal framework. It managed to survive the blockade by Russia and Georgia and to adopt a package of laws that defined the functioning of the government and administration, law enforcement, the security forces and the army. In 1993, the Abkhaz Parliament adopted a Law on Citizenship (it was amended in 1995, and in 2005 a new version of the law was adopted). In 1994, the Constitution of the Abkhaz Republic was adopted, and in 1999 the “Act of State Independence of the Republic of Abkhazia” proclaimed the fundamental principles of the *de facto* state. Article 49 of the Constitution of Abkhazia stipulated that it was the exclusive prerogative of ethnic Abkhazian citizens of the Republic of Abkhazia between the ages of 35 and 65 to occupy the post of Head of the Republic,⁴⁴ meaning the foundations of this *de facto* state included strong elements of ethnocracy⁴⁵. Later this model evolved into an ethno-democracy, a model in which democratic procedures are complemented by restrictions on the basis of ethnicity. Prior to the “five-day war” of 2008, presidential elec-

44 The Constitution of the Republic of Abkhazia...

45 There are minor exclusions from this general rule. So the Vice-Chairman of Parliament is held by the ethnic Armenian. In the Gali/Gal District, where there the Georgian (Megrelian) ethnic dominance has kept even after 1993, the education in Georgian is provided and the newspaper “Gal” is published in three languages (Abkhazian, Georgian and Russian).

tions had been held in Abkhazia in 1994, 1999, and 2004/2005, and parliamentary elections in 2002 and 2007. In 1994, the head of state was elected by the parliament, while in 1999 there was only one presidential candidate. In 2004/2005, however, the Republic experienced a truly competitive and unpredictable presidential election race, in which the then leadership failed to secure the victory of its preferred candidate. The first peaceful transfer of presidential power took place in 2005. In contrast, in post-Soviet Georgia the first peaceful transfer of presidential power took place in 2013 in the aftermath of presidential elections.

Thus during the years of negotiations, the original positions of Georgia (focused on Georgia's territorial integrity and the return of all refugees/IDPs to the entire territory of Abkhazia) and Abkhazia (focused on the independence of the breakaway republic and the return only of those who did not take part in military operations against the Abkhaz forces) did not change significantly. As such, a formula for political compromise was not found. The conflicting parties were nonetheless able to establish a constructive partnership to exploit the Inguri hydropower plant. This large energy facility that services the whole Caucasus region was built in 1977; 60% of the electricity it generates goes to Georgia, with 40% going to Abkhazia.

Unfreezing the Conflict: 2004-2008

New possible avenues for the resolution of the conflict arose between 2003-2005. As a result of the “Rose Revolution”, Georgian President Eduard Shevardnadze, who had been associated with the armed conflict with Abkhazia and subsequent lesser confrontations in 1998 and 2001, resigned and a new generation of politicians came to power in Georgia. These new political figures were not burdened by the experience and political pressures of past years. During the 2004-2005 election cycle, Sergey Bagapsh (1949-2011), who had a reputation as “a moderate” leader, was elected to the presidency of Abkhazia. While the image of him as the “dove of peace” had little basis in reality, Bagapsh, unlike his predecessor Vladislav Ardzinba, was not perceived as aggressive by Georgian society. He was not suspected of having participated in or supported the escalation of the military confrontation in the early 1990s. Additionally, some had hoped for a more positive role for Russia in the resolution of the conflict. Moscow's position on the political crisis in Adjara in winter and spring of 2004, where they were constructive and cooperative in their approach, strengthened the confidence of all involved. The armed conflict in that autonomous region of Georgia was averted through negotiations between Russia and Georgia. Russian authorities promised not to oppose the restoration of Tbilisi's control over Adjara in exchange for guarantees of the personal immunity of Ajarian leader Aslan Abashidze, who

finally was taken to Moscow⁴⁶. During the first months of his term, newly elected Georgian President Mikhail Saakashvili repeatedly expressed in public his admiration for Vladimir Putin and emphasized his role in bringing about positive changes in Russia. He also repeatedly stressed the necessity of starting bilateral relations anew from a “clean slate”. The initial steps of the new Georgian government vis-à-vis Abkhazia engendered cautious hopes for the development of new approaches to the peace process. Tbilisi took steps to reform the so-called “Abkhazian government in exile”, which together with the Supreme Council of Abkhazia, which played the role of “parliament in exile”, had operated in Georgia since 1995. For many years those two bodies had focused on the domestic Georgian audience. Their bureaucracy was prohibitively bloated, even by post-Soviet standards, and they were incredibly inefficient. By the early 2000s, the “government in exile” consisted of no fewer than 5,000 functionaries⁴⁷. Their members were Georgian refugees and IDPs from Abkhazia who were far less willing to compromise with the breakaway republic than were the government officials in Tbilisi involved in the negotiation process with Sukhumi. After coming to power, Saakashvili significantly reduced the size of the bureaucracy of the “government-in-exile” and dismissed Tamaz Nadareishvili, who had been considered in Abkhazia in the 1990s as the leader of a “Fifth column”. The participation of the “Abkhazian representatives” in the Georgian parliament was suspended, as they had received their mandates in 1992 and had not been reconfirmed through elections at any point since the armed conflict. Tbilisi also stopped cooperating with insurgent groups such as the “Forest Brothers” and the “White Legion” operating in Abkhazia’s Gali district. A young and enterprising politician, Irakli Alasania, was appointed presidential envoy for conflict resolution.

However, this promising start did not lead to irreversible progress. The parties to the conflict agreed only on the text of the Protocol on the Non-resumption of Hostilities (in December 2005). All the positive steps that had been taken by Tbilisi were almost immediately undercut by the irresponsible political rhetoric of the Georgian leadership. Georgia’s new president made the restoration of the territorial integrity of Georgia the *idée fixe* of both his domestic and foreign policies, seeing this as a way to overcome the legacy of Shevardnadze. In May 2004, the new Georgian president stated that: “We will return Abkhazia within my presidential term.”⁴⁸ A number of other factors also had a significant influence on the ethno-political conflict. In May 2004, the process of destroying the existing political, legal, social, economic,

46 Aslan Abashidze was leader of Adjara for 13 years, first as Chairman of the Supreme Council (1991-2001) and then as the Head of the Autonomous region (2001-2004).

47 Abkhazia Today..., p. 29.

48 *M.Saakashvili: my vernem Abkhaziyu* [M.Saakashvili: We will return Abkhazia], <http://top.rbc.ru/politics/26/05/2004/52202.shtml>.

military and political status quo in South Ossetia began. For the first time since cease-fire agreement of 1992, the breakaway republic experienced renewed military clashes and bloodshed. Hopes that a new generation of Georgian politicians could build on the other peaceful approaches to the settlement of these protracted conflicts were quickly dashed. This affected not only South Ossetia, but the entire course of the peace process in Abkhazia, reinforcing the already pervasive distrust between the two sides.

In addition to the deterioration of the situation in South Ossetia, which directly affected Russia's position in the North Caucasus (taking into account the strong political ties between the breakaway republic and the Russian constituency in North Ossetia, as well as the unresolved Ossetian-Ingush conflict), the Georgian authorities moved two other contentious issues to the top of their policy agenda. First, they accelerated Georgia's cooperation and integration with the North Atlantic Treaty Organization (NATO), which served to create immense tension in their bilateral relations with Russia as Russia was rather skeptical of and sensitive to NATO enlargement in the former USSR. Second, the new government implemented a full-scale program to modernize the armed forces. The U.S. became the most consistent lobbyist in favor of Georgia-NATO integration. In March 2007, a bill called the "NATO Freedom Consolidation Act of 2007" was supported by members of the House of Representatives by a simple majority of votes. Earlier (November 2006), this document had been approved by the U.S. Senate. In April 2007, the Law was signed by the president of the United States (at that time George W. Bush), and on April 3, 2008 at the NATO summit in Bucharest, a Declaration supporting Georgia's NATO aspirations was adopted. It should be noted that this declaration did not provide for a "Membership Action Plan" for Georgia (the penultimate stage in the process of attaining full NATO membership)⁴⁹. Thus, Washington provided not only military and political support, but also served as a powerful advocate for Georgia internationally, representing the former Soviet Caucasus republic as a "beacon of democracy". Even the tough actions of Georgian law enforcement agencies against the opposition in November 2007, in addition to the short-term implementation of a state of emergency and the postponement of national and local elections, did not induce the United States to modify its approaches to the Georgian administration. All these activities strengthened expectations in Tbilisi that any and all of Georgia's policies on Abkhazia, up to and including military actions, would be supported by the United States and its allies. As such, the budget for defense and security in Georgia expanded rapidly between 2004 and 2008. On September 14, 2007, the Georgian parliament adopted a resolution to increase the troop level of the armed forces to 32,000 people and then on July 15, 2008 to 37,000 troops. In 2008, a fateful year for Georgia, de-

49 See the full text of the Declaration: http://www.summitbucharest.ro/en/doc_201.html.

fense expenditures exceeded a quarter of the total budget, amounting to 8% of GDP⁵⁰. John Colarusso, a well-known Canadian expert on the Caucasus (he served as a back channel diplomat between Washington and Moscow and an advisor on the Caucasus during the Clinton administration), rightly noted that “President Saakashvili listened to some imprudent voices in Washington, and that he himself had based too much of his domestic image on wielding military might and on reintegrating South Ossetia and Abkhazia by force instead of by a realistic process of dialogue.”⁵¹

As for Georgia’s policy with regard to Abkhazia, the most important method of “unfreezing” the conflict was the creation of new structures not covered by the legal framework enshrined in the cease-fire agreement. A revitalization of the Abkhaz “authorities-in-exile” began during this period. In July 2006, the Georgian government deployed law-enforcement troops to the upper part of the Kodori Gorge, a part of Abkhazia that had been designated as a “demilitarized zone” and that, since 1993, had not controlled by Sukhumi⁵². This territory was subsequently proclaimed the residence of the “Abkhaz government-in-exile.” According to Saakashvili this step signified the return of the legitimate authorities to Abkhazian territory. Tbilisi thus violated the 1994 Moscow agreement in two ways: first by establishing the “government-in-exile” in Kodori (renamed “Upper Abkhazia”), and second by deploying military or police units in the region. These steps were followed by comments from Georgian representatives on the strategic importance of the Kodori Gorge, with Saakashvili even going so far as to refer to it as the metaphorical “Heart of Abkhazia.”⁵³ Givi Targamadze, then chairman of the Defense and Security Parliamentary Committee of Georgia, said during that period: “It is a strategic area from which the helicopter flight time to Sukhumi is only five minutes.”⁵⁴ These actions fundamentally changed the tenor of

50 Pukhov, R. (ed.). *The tanks of August* (2010). Center for Analysis of Strategies and Technologies, Moscow, pp. 11-42.

51 Colarusso, John. *It is time for the West to look for the new discourse for Georgia*, <http://www.caucasustimes.com/article.asp?id=20404>.

52 From 1993 to 2006, the Kodori Gorge was actually “no man’s land”. It was not controlled by Sukhumi, but Tbilisi’s authority there was also nominal. In reality, the territory was dominated by Svan warlords. The Georgian authorities tried to bring those units under their formal control. In 1998, the “Monadire” (“Hunter”) formation was incorporated into the armed forces of Georgia, and in 1999 its commander, Emzar Kvitsiani, was appointed a Special Envoy of President Eduard Shevardnadze in the region. In July 2006, Kvitsiani’s formation was disbanded and the Gorge itself came under the control of Tbilisi. More on the situation in the Kodori Gorge in the post-Soviet period, see: Marten, Kimberly. *Warlords, Sovereignty and State Failure. Chapter Three: Lessons from Post-Soviet Georgia* (2009). In *Saltzman Working Paper*, no. 12 – November, pp. 42-67.

53 Saakashvili: *V abkhaziyu vozvrashchaetsya legetimnoye pravitel'stvo* [Saakashvili: the legitimate government returns to Abkhazia], <http://regnum.ru/news/680582.html>.

54 Cited in: International Crisis Group. *Abkhazia: Ways Forward. Europe Report N°179* – 18 January 2007, p. 20.

relations between Georgia and the breakaway republic of Abkhazia. The “government-in-exile” that had previously been a secondary structure became the sole source of legitimacy in Abkhazia in the eyes of the Saakashvili government. The Georgian president decreed that all foreign diplomats engaged in the settlement of the Georgian-Abkhazian conflict should travel to the village of Chkhalt'a, which had become the residence of the “Government of Abkhazia”. In this sense, Tbilisi demonstrated that its priority was not the harmonization of Georgian-Abkhaz relations, but rather the imposition of exclusive Georgian political and military control over Abkhazia. The operation in the Kodori Gorge became very important symbolically and served as an unambiguous message to the de facto leadership of the Republic. Tbilisi's determination to position the representatives of the former Georgian community of Abkhazia as the only legitimate spokesmen for the interests of the disputed area destroyed the old status quo that had been in favor of Georgia and could potentially have put an end to the de-facto statehood status of Abkhazia. In this case, the issue of recognition did not play a primary role. Until 2006, Sukhumi and Tbilisi negotiated, albeit in fits and starts. After the operation in the Kodori Gorge, the negotiation process ceased. Each side prepared for further changes to the status quo that had prevailed since 1993-1994.

At the same time that it violated the status quo, Tbilisi appealed to Sukhumi through populist initiatives. On March 28, 2008, at a meeting with political analysts from the Tbilisi Foundation for Strategic and International Studies, President Saakashvili offered Abkhazia “unlimited autonomous status” within Georgia, as well as “federalism and security guarantees of peaceful development.”⁵⁵ But Georgian leaders' proposals contained fundamental contradictions (for example, autonomous status and federalism cannot be identified as identical political and legal principles). The last conflict resolution proposal prior to the “five-day war” was made by then German Foreign Minister Frank-Walter Steinmeier in July 2008. The first stage of Steinmeier's three-step peace plan envisaged that Georgia would abjure the use of force and Abkhazia would agree to the return of Georgian refugees. At the second stage, the conflict parties would start to elaborate and implement joint projects, and at the third, the status of Abkhazia would finally be determined. The Steinmeier project was supported by Russia (especially on the issue of an agreement on the non-use of force), and partially supported by Georgia (which was especially concerned with the steps included in the third stage), but was almost unilaterally rejected by Abkhazia, whose representatives voiced many comments, objections and complaints.

Russia too contributed to the “unfreezing” of the conflict in the spring and summer of 2008. On March 21, 2008 the Russian State Duma considered

55 *Saakashvili predlozhit Abkhazii shirokii federalizm i post vitse-prem'era* [Saakashvili offered Abkhazia broad federalism and the post of deputy prime-minister], <http://www.m.kavkaz-uzel.ru/articles/134226>.

revising the conditions of the Russian approach to the recognition of the territorial integrity of Georgia. The lower chamber of the Russian parliament identified two conditions for possible recognition of Abkhazia and South Ossetia, the first being Georgia's accession to NATO and the second being the use of military force against the two breakaway republics. In April 2008, Russian President Vladimir Putin instructed the federal government to render assistance to Abkhazia and South Ossetia, stressing primarily economic and humanitarian issues. On May 30, 2008 Russia's Railway Troops (400 in all) were deployed to Abkhazia to restore the delapidated railway infrastructure. That deployment was not envisaged under the conditions of the 1994 Moscow ceasefire and separation of forces agreement.

The Russo-Georgian war in August 2008 affected Abkhazia to a much lesser degree than South Ossetia, where Russia was directly engaged. However, the leadership of the Republic of Abkhazia exploited the situation to their benefit. On August 9, 2008, Abkhaz armed forces opened a "second front" and took control of the Kodori Gorge, without encountering serious opposition from the Georgian military and police units deployed there, who ceded the territory and retreated together with the "government of Abkhazia-in-exile." For the first time since 1993, the *de facto* government established complete control over the entire territory of the former Abkhazian Autonomous Soviet Socialist Republic. On August 26, 2008 Russia became the first country to recognize the independence of Abkhazia. On August 30, 2008, Georgia withdrew from the 1994 Moscow Agreement.

After Recognition: New Realities and New Challenges

The recognition of Abkhazian independence opened up a new page in the history of the conflict. For the first time since the dissolution of the Soviet Union, a precedent for the recognition of a former Soviet autonomous entity as an independent state was created. The formation of an Abkhazian state received little international recognition and minimal support outside the Eurasian region. Only five other countries have recognized Abkhazian independence. Indirectly, however, the new realities in the region have nonetheless been recognized by the West. Abkhazia gained access to the "Geneva discussions" on security and stability in the South Caucasus (which began on October 15, 2008), although the Abkhaz representatives have not yet obtained official diplomatic status but participate as "experts". Even so, their very participation in multilateral discussion on humanitarian issues and the prevention of further incidents has partially served to confirm the recognition of Abkhazia's status as a separate political entity. Interest in "engagement with Abkhazia" without it having received explicit recognition from the European Union also demonstrates this point. The EU sponsors projects to rehabilitate

and support the non-governmental sector in Abkhazia, as do other international agencies and NGOs.

Meanwhile, the recognition of the independence of Abkhazia by Russia has contributed to an increase in Russian military, economic and political influence in Abkhazia. After the “five-day war”, international engagement in Abkhazia was scaled back. The UNOMIG (consisting of approximately 150 observers) ceased its activities after Russia used its veto power in June 2009 to block a routine vote in the UN Security Council on extending UNOMIG’s mandate. The Russian side, in agreeing to recognize the independence of Abkhazia and South Ossetia, formulated the following approach: the territorial integrity of Georgia that had been recognized by the countries of the West and the Russian Federation prior the August 26, 2008 had ceased to exist. Assuming the independence of Abkhazia and South Ossetia as a legally accomplished fact, the Kremlin initiated the reformulation of the UN mission. According to this approach, no international mission which operated on the *de jure* territory of the Georgian state through August 2008 should ignore the new realities and consider their activities in Abkhazia and South Ossetia as part of their activities in Georgia. On February 13, 2009 the UN Security Council adopted Resolution No. 1866, which extended the UNOMIG mandate for four months. Both Moscow and Tbilisi expressed satisfaction with that decision. However, the February resolution did not resolve the political and legal deadlock in which all of the interested parties were engaged. The primary issue was not only the Russian desire to expel the international observers, but also the fact that the UNOMIG mandate was not suited to the post-2008 realities, as it had been defined and adopted prior to the 2008 war. The mandate was based on the Moscow Agreement of May 14, 1994, which, after August 2008, lost its judicial power. Georgia’s decision to withdraw from the Agreement was guided by a Parliament resolution on “Peacekeeping Forces Located on the Territory of Georgia”, adopted on July 18, 2006 and “The Law on the Occupied Territories of Georgia” adopted on August 28, 2008, as well as emergency orders of the Georgian government from August 27, 2008. With its recognition of the independence of Abkhazia, Russia abandoned its peacekeeping status and became the patron of the ethno-political self-determination of the two breakaway republics. The realities established in 2008 were radically different from those of the early 1990s, when Moscow had recognized the territorial integrity of Georgia, and Tbilisi had supported the involvement of the Russian Federation as a mediator. However none of these new factors were taken into account in the drafting of the extension for the missions’ mandate. In fact, the proposals were limited to a so-called “Technical Extension” (i.e. the extension of the mission for the sake of its activities). Moscow refused to support such a scenario.

The character of Russian-Abkhaz relations has changed during the formation of the new status quo. The peacekeepers were replaced by military

troops and border guards meant to directly support the ethno-political self-determination of Abkhazia, rather than to maintain the ceasefire between Abkhazia and Georgia. On April 30, 2009, Moscow and Sukhumi signed an agreement establishing joint efforts for the protection of the state border of Abkhazia, as a result of which a special Office for the Protection of the Border of the Republic of Abkhazia was created within Russia's Federal Security Service (FSB). The first outpost of this office was opened on December 8, 2010 in the village Pichora in Abkhazia's Gali district. On February 17, 2010, Moscow and Sukhumi agreed to establish a joint military base with Russian troops on the territory of Abkhazia. In 2010, Russia allocated 1.8 billion rubles in grants for Abkhazia and the carry-over for 2011 amounted to 1.2 billion rubles. These facts pointing to Russian patronage have caused some authors to conclude that Abkhazia was not transformed into a partially recognized Republic, but rather into a "Russian protectorate".⁵⁶ Today it is probably too early to draw any final conclusion about the evolution of Abkhazia into a full protectorate. After August 2008, the issue of "the Georgian threat" in Abkhaz politics was rapidly marginalized. It is significant that for the first time since the Georgian-Abkhaz conflict of 1992-1993, none of the candidates in the December 2009 Abkhaz presidential election was labeled "pro-Georgian". Two new issues came to dominate the Abkhazian agenda: first, the quality of Abkhazia's independence and statehood; and second, the "cost" of Russian patronage (primarily focused on the military-political and socio-economic penetration of Russia into the Republic). These issues became a major subject of discussion between the candidates for the December 2009 presidential election, the first following the recognition of national independence. As in 2004-2005, the campaign between five registered candidates was highly competitive. Incumbent Sergey Bagapsh won in the first round with 61.16% of the vote. Two of his opponents, former Vice-President Raul Khajimba and former parliament deputy Beslan Butba, criticized the government for yielding to Russia's interests and neglecting Abkhazia's national interests. (Of particular concern was the transfer of strategic assets like resorts and the railway to Russian control). However, criticism of the authorities did not violate the political consensus on the political and legal status of Abkhazia established in the early 1990s. An important feature of the 2009 campaign was the restraint shown by the Kremlin. Unlike in 2004-2005, the Russian authorities tried to not intervene in the election and Vladimir Putin, then the Prime Minister of the Russian Federation, even met with opposition candidate Raul Khajimba during the campaign. This was a typical practice for Russian diplomacy in Eurasia. Thus that election cycle saw Russia re-

56 David Petrosyan, *Nepriznannyye gosudarstva Yuzhnogo Kavkaza v 2009 godu. K novomy status-quo v regione* (in Russian). [Unrecognized states of the South Caucasus in 2009: Towards a new status quo in the region] (2011). In *Kavkaz-2009. Ezhegodnik Kavkazskogo Instituta* [Caucasus-2009. Yearbook of Caucasus Institute]. Yerevan, p. 83.

place Georgia as the primary issue on Abkhazia's domestic and foreign policy agenda.

Today we can register several contradictions within the asymmetric Russian-Abkhaz partnership. The first is the scale and volume of Russian business penetration into the Abkhaz economy, which had been devastated during the armed conflict of 1992-1993 and had not undergone full-scale privatization and integration into the regional and international economy). The second is the prospect of an increased Russian military presence in Abkhazia. The third is the wide range of property issues in Abkhazia, as the extended ethno-political conflict prevented the full development of the norms, regulations, and legal institutions that ensure a functioning market and respect for private property, offsetting the prioritized rights of the "titular" ethnic group to its "primordial land". The fourth concerns the prospects for broad international recognition of Abkhazia, which is in the interests of Sukhumi and at the same time constitutes a "headache" for Moscow, as it challenges its exclusive presence in the region.

The sudden death of the second President of Abkhazia, Sergei Bagapsh, on May 29, 2011, occurred in a partially recognized republic facing this new set of complex problems. Bagapsh died half way through his second presidential term. He did not manage to name a potential successor, and yet this problem was little discussed. In Abkhazia, his death occasioned both pain and regret due to the fact that during the six years of his presidency he had demonstrated the ability to negotiate and reach a compromise even in the most difficult of situations. His name will be inextricably linked with two historic events for Abkhazia: the recognition of the republic's independence and the civilized and peaceful transfer of the presidency. Three candidates participated in the pre-term election for Bagapsh's successor, all of them well-known political figures: acting Vice-President Aleksandr Ankva, Prime Minister Sergei Shamba (previously a long-serving minister of foreign affairs), and Raul Khajimba, who placed second after Bagapsh in the presidential elections of 2004 and 2009. The campaign in 2011 was not as heated as the elections in 2004. It was rather like the first presidential elections following the recognition of the independence of Abkhazia in December 2009. Fears that Bagapsh's death would provoke domestic political splits with serious geopolitical consequences contributed to this muted electoral atmosphere. All three candidates signed a "Charter for Fair Elections", which nonetheless failed to prevent a major scandal caused by an interview in which former Georgian Defense Minister Tengiz Kitovani claimed Ankva had ties to the Georgian intelligence services. However, the "black" PR-technology that had proven effective in 1990s did not work in 2011, and Ankva ultimately emerged victorious. As Irakli Khintba (a political analyst and the current deputy foreign minister) rightly noted, "people are tired of this topic. We have a whole generation that grew up after the war. Besides, there is public demand for fair

elections and when someone openly violates [the charter], it can only annoy people.”⁵⁷

The military and political defeat of Georgia in August 2008 strengthened and provided momentum for the pro-American and North Atlantic vector of Georgian foreign policy. Georgia signed a Charter on Strategic Partnership with the United States in January 2009. This document designated Georgia a special partner of Washington outside NATO. The steps by the Kremlin to recognize independence of the two former autonomous regions of the Georgian SSR were perceived in the West not as support to two states for years *de facto* existing outside Georgia, but as Russian territorial expansion. In this regard, Strobe Talbott, an iconic figures in Russian-American relations who served as the Deputy Secretary of State on CIS issues from 1994 to 2001, spoke for many when he affirmed that: “It may be that officially Russia considers Abkhazia and South Ossetia independent states, but in the West it is perceived as an extension of the Russian territory. It happened for the first time since the end of the Soviet era and I think this is a dangerous phenomenon.”⁵⁸ The United States and its allies have followed this line since 2008 in spite of the change of heads of state, foreign ministers and the heads of the legislative bodies. The United States and Georgia began talks on American military bases in Poti and Marneuli (this step is considered a counterweight to the creation of Russian military infrastructure on the territory of Abkhazia in Ochamchira and Gudauta). There is a paradoxical situation in which the strengthening of the Russian military presence in Abkhazia and the U.S. (and NATO) presence in Georgia can only reinforce the new post-August 2008 *status quo*. The military capability of the United States will not be used against Russia, and vice versa. The presence of the military “fists” of Moscow in Abkhazia and an American military presence in Georgia would serve to deter Tbilisi on the one hand and Sukhumi on the other from any “reckless actions.” All these factors would objectively work to preserve the status quo that emerged in the aftermath of the war of August 2008. Meanwhile, the Russian military buildup in Abkhazia creates difficulties for Moscow itself. Deployment of bases on one side would improve the internal infrastructure in Abkhazia (where today tourism is actually limited to the space between the Russian border and Sukhumi/Sukhum, though to the east of the capital it has been underdeveloped). New security guarantees from Moscow will also help guarantee the revival of Abkhazia. At the same time, however, the arrival and presence of troops from large neighboring countries does not contribute to

57 Allenova, Olga. V Abkhazskuyu kompaniyu dobavili Gruzii (in Russian) [Georgia was added to the Abkhaz electoral campaign] (2011). In *Kommersant- Daily*, no. 157 (4698).

58 “Nadeys”, chto leduyushchaya administratsiya SSHA vernetsya k idée Dogovora po protivoraketnoy oborone” [I hope that the next U.S. administration will return to the idea of the ABM Treaty]. *Vremya novostey* – 2008, November 1, no. 204.

the development of national statehood over the long term. On the contrary, it creates new collisions.

Though the Ukrainian crisis has had no direct impact on the situation in Abkhazia and around it the Georgians view the situation in Ukraine as part of a wider geopolitical stand-off between Russia and the West rather than as a crisis *sui generis* resulting from domestic political developments in Ukraine. The Ukrainian crisis and worries about Moscow's real intentions strengthened Georgia's desire for joining the Euro-Atlantic institutions. Thus in 2014 Tbilisi signed an Association Agreement with the European Union. NATO at the Wales summit in September 2014 reaffirmed its promise of Georgia's membership and provided for a substantial package of assistance to strengthen Georgia's defense capability and its interoperability with the Alliance.⁵⁹

Georgia's fears seemed justified also by the developments in Abkhazia, where the Ukrainian conflict was cited by the secessionists as calling for further moves away from Georgia. It also made topical some issues related to the Georgian minority in the East of the republic. The revolt against President Alexander Ankvab in May 2014 was attributed to public anger over his policy toward the ethnic Georgians in Abkhazia. This policy was widely perceived as too liberal, particularly since it allowed the ethnic Georgians to register as voters and to receive Abkhazian passports. A. Ankvab resigned and was replaced as President of Abkhazia by Raul Khadzhimba who favors stronger politico-military ties to Russia and freezing all contacts along the breakaway region's frontier with Georgia.

In November 2014 a new bilateral treaty with the Russian Federation was signed. It meant deeper economic integration and further liberalization on the *de facto* Russia-Abkhazia border. Its first ("Moscow") draft provoked heated discussions among Abkhaz politicians and NGO leaders. The Abkhaz political elite strongly objected to full "integration" as contrary to the cause they have fought for. The Abkhaz side managed to remove some stipulations from the initial draft, which for example, would have allowed Russian citizens to acquire also Abkhaz citizenship. At present the Abkhaz elite is much more afraid of a potential shift in the ethnic balance than of the Georgian threat. The easier access to Abkhazian citizenship would have opened the way for the Russian citizens (including the ethnic Georgians holding Russian passports) to acquire property in Abkhazia or to attempt to reclaim confiscated property they owned previously. The Abkhazian negotiators also insisted on maintaining Abkhazia's military forces and did not accept obligatory "coordination" of its foreign policy with Moscow. In fact the treaty has not changed much in the asymmetric relations between Russia and Abkhazia although it did not exclude the possibility of their further evolution.

59 NATO's relations with Georgia, http://www.nato.int/cps/en/natolive/topics_38988.htm.

Abkhazia aspires for independence but remains highly dependent on Russia for its defense and security, not to mention the balancing of its budget and everything from social benefits to post-war reconstruction. For its part Russia desires a greater access to the Caucasus and the Black Sea, which would offer additional opportunities for Russian big business and create an additional barrier to NATO's penetration into the post-Soviet space. At the same time, however, Moscow cannot support Abkhazia's ethnocratic policy, since any discrimination of its own citizens on ethnic grounds would create a dangerous precedent. The Abkhazian elite, on the other hand, refuses to move away from the ethnocratic rule which it has developed since the armed conflict with Georgia.⁶⁰ Abkhazia is not Nagorny Karabakh, or even South Ossetia, where the titular ethnic groups enjoy a clear numerical superiority. It is unlikely that the Armenian, Russian and Georgian (Mingrelian) population of the republic will accept indefinitely the constitutional provision (Article 49 of the Constitution of Abkhazia) reserving to the ethnic Abkhaz only the exclusive right to occupy the post of President. It will be also necessary to take into account the growing economic weight of the Armenian community, which is almost equal numerically to the Abkhaz. Hence sooner or later new approaches in developing an optimal nation-building model. will be called for. A state which has been based on expedience (because otherwise it could not survive in the conflict) will have to evolve and move towards the rule of law. According to the American scholar Gerard Toal, "Abkhazia's biggest challenges today are not about recognition, but about creating stable foundations for its internal legitimacy."⁶¹ By taking this path, the partly internationally recognized Abkhazia could achieve its real international independence, not just independence from Georgia.

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61 Toal, Gerard. 'Standards for status' is more realistic than 'territorial integrity' <http://www.caucasustimes.com/article.asp?language=2&id=20292>.

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Comments

David Matsaberidze

The chapter written by Sergey Markedonov represents a general and rather balanced overview of the Abkhazian conflict but with no clear research objective, no problem definition in the introduction and no conclusion. Its title is well formulated as the conflict could not be regarded as simply a conflict between the center and the periphery, but is rather a small episode in the post-Soviet geopolitical games.

At different points the author claims that during the Tsarist and Soviet times respectively the migration and resettlement of ethnic Georgians on the territory of Abkhazia was aimed at changing the ethno-demographic balance in Abkhazia. This is one line of possible interpretation. In fact however the massive resettlement took place twice. After the Russo-Turkish War of 1877-1878 a great number of Moslem Abkhazians left for Turkey on religious grounds. It is improper however to present the subsequent movement of landless peasants as resettlement from Georgia to Abkhazia. In the process of consolidation of the Tsarist rule in the Caucasus the principality of Abkhazia as well as other former Georgian principalities lost their status of principalities. In 1864 they were incorporated in Kutaisi Gubernia (including the modern-day territory of Abkhazia), and Tbilisi Gubernia (today's Eastern Georgia). Thus, the migration of population took place on the territory of Georgia, including Abkhazia, and not from Georgia to Abkhazia. The region was thus gradually repopulated. Several decades later, in the 1930s, during the collectivization period, there was a movement of working force in order to fill in its shortage in the region. A group of Abkhazian and Russian authors calls this process the "*Georgianization*" of Abkhazia, evidently trying to enhance the legitimacy of Abkhazia's secession in 1991.

In his analysis of Abkhazia under the Democratic Republic of Georgia (1918-1921) the author presents no empirical evidence of "the strict and sometimes repressive policies of Georgia's Menshevik government vis-à-vis ethnic minorities (which) created sympathy for the Abkhaz people in Soviet Russia and within the Bolshevik movement". I think that this thesis represents a replication of the former Soviet propaganda.

During the Soviet time the ethnic Abkhazians enjoyed a quota system giving them a considerable political weight. Prior to the dissolution of the Soviet Union the population of the Abkhazian Autonomous Republic stood at 530,000, out of which 300,000, or 56.6 per cent were ethnic Georgians. The number of Abkhazians stood then at about 80,000, or 16 per cent of the population. The remainder was composed of the Russians, Armenians, Estonians

and Jews. In spite of a great difference in numerical terms between the ethnic Georgians and Abkhazians, eight ethnic Abkhazians out of the 15 deputies were sent to the Supreme Soviet of the Soviet Union from that autonomous republic; out of eight posts of the first secretary five were occupied by the ethnic Abkhazians; out of 140 deputies of the Supreme Soviet of Abkhazia 57 were the ethnic Abkhazians and only 53 the ethnic Georgians; out of 12 regional ministers eight were the Abkhazians (Nadareishvili, 1996, p. 11).¹ The ethnic Abkhazians maintained their political privileges in independent Georgia as well. According to the Constitutional Project by Dr. Levan Aleksidze a new formula for the distribution of seats in the Abkhazian assembly was offered – 28 ethnic Abkhazians, 26 ethnic Georgians and 11 representatives of other ethnic groups. The intention was to ease tensions in the region, first and foremost between the ethnic Abkhazians and the Georgians. According to the law of July 9, 1991, the Abkhazians (representing about 17 percent of the population at that time) were guaranteed 28 mandates in the Abkhazian assembly, the Georgians (46 percent at that time) were given 26 mandates while other nationalities (mainly the Armenians, Greeks and Russians representing 37 percent) only 11 mandates.²

In autumn 1991, the elections to the Supreme Soviet of the Abkhazian ASSR were held according to this new formula. Altogether 63 deputies were elected, among them 28 Abkhazians and 24 Georgians. At the first session Vladislav Ardzinba, an ethnic Abkhazian, was elected to preside in the Supreme Soviet of the Abkhazian ASSR. Thus, the Abkhazians had had no ground to fear Georgian political domination in their own autonomous region. According to the Soviet Constitution Abkhazia had no right to secede from a USSR member state and thus could not subordinate itself directly to Moscow during and after the dissolution of the Soviet Union. Its “separation” had to be blessed by Tbilisi. Moreover the local ethnic Georgians did not participate in the Abkhazian referendum of March 17, 1991 on the new union treaty of the Soviet Union. Thus the outcome of this referendum could not be deemed legitimate since the participation of all voters was not assured.

According to the post-Soviet Georgian historiography and political science, 1991 was the period of national liberation of all *Georgian people*, including national minorities, rather than the struggle for independence of Georgia as state (which was won on April 9, 1991). While stressing the historical importance of the village Likhni it would have been fair to add that Likhni was not only the former residence of Abkhazian princes, but also the location of a former Soviet military base used by the Russians in Abkhazia. It should be stressed that “*the ethno-nationalist slogans and appeals for the restoration of the political and legal continuity of the Georgian Democratic*

1 Nadareishvili, T. *Genocide in Abkhazia* (1996). Tbilisi (in Georgian).

2 Tamaz Disamidze (ed.). *Regional Conflicts in Georgia – South Ossetian AO. Abkhazian SSR (1989-2005)*, A Collection of Political and Legal Acts (2005). Tbilisi, p. 76.

Republic (1918-1921)” according to the Constitution of 1921 *were made by the Military Council only after the civil war in the winter of 1992 while President Z. Gamsakhurdia declared Georgia a successor state of the Soviet Union.*

The author argues that Tbilisi was provoked to send its troops to Abkhazia by the decision of the Abkhazian Supreme Soviet of July 23, 1992 to abolish the Constitution of 1978 of the Abkhazian Autonomous Republic within the Georgian SSR and to replace it by the Constitutional Project of 1925. However according to the order relocating military units, issued by the central Georgian authorities, as well as to the memoirs of Eduard Shevardnadze, the troops relocation was caused by frequent attacks and robberies by local paramilitaries on the railway connecting the Russian Federation with Armenia via Abkhazia. Thus the Georgian troops were *relocated on the territory of the Republic of Georgia* for the defense of that vital railway link. In addition, the author creates the impression that Georgia willfully joined the Commonwealth of Independent States (CIS), presumably because “... Moscow initially supported Tbilisi’s goal of restoring Georgia’s territorial integrity...” In reality, Georgia joined the CIS under heavy pressure from Russia in exchange (hopefully) for ending the war in Abkhazia and for avoiding Georgia’s forceful partition into Abkhazia, Western Georgia (controlled by ex-President Zviad Gamsakhurdia and his supporters), Eastern Georgia (controlled by Eduard Shevardnadze), and South Ossetia.

When describing peace agreements between the Abkhazian secessionists and the central Georgian authorities, the author pointed out that the Abkhazian side violated them in order to gain full control over Abkhazia. He however failed to mention that these peace accords were reached with the Russian Federation acting as mediator and guarantor of their implementation. The Russian Federation was thus legally liable for their unilateral violations by the Abkhazian secessionists. Furthermore, during the Russian-Georgian War in August 2008 the Abkhazian forces succeeded in taking control of the Kodori Gorge primarily thanks to open Russian threats to the rest of Georgia, buttressed by the advance of Russian troops towards Tbilisi. When stating that the “negotiations on the future status of Abkhazia and the development of international contacts became priority directions for policy”, the author omits to mention the fact that Abkhazia has not participated in these activities as an independent political actor but as a Russian protectorate.

The Alliance and Strategic Partnership Treaty signed between the Russian Federation and Abkhazia (a similar treaty was signed also with the Tskhinvali Region/South Ossetia) stipulates the creation of a common social and economic space and Russian assistance to Abkhazia’s social-economic development. It paves the way to Abkhazia’s full integration into the Russian economy. According to the treaty Abkhazia is obliged, within 18 months after its entry into force, to put its customs legislation in line with the Russian-led

Eurasian Economic Union. The newly elected Abkhaz President Raul Khajimba apparently intends to further liberalize the border crossings with Russia while tightening controls on the border with Georgia, including closing down the crossing point on the Enguri River. These measures would certainly preclude the political and economic aspects of peace proposals by the central Georgian authorities. Considering however the already voiced complaints over the too heavy political dependence of Abkhazia and South Ossetia on Russia these Georgian proposals might be useful at some point in the future.

The South Ossetia conflict

Sergey Markedonov

The Georgian – Ossetian conflict was the first ethnic confrontation in post-Soviet Georgia that escalated into full-scale fighting. The South Ossetian Autonomous Region within the Georgian Soviet Socialist Republic – the precursor of the unrecognized state of the Republic of South Ossetia – was established on 20 April 1922. The territory of this nation-state made up 6.5% of the total territory of Georgia (3,840 square kilometers). According to the Soviet census of 1989, there were 98,500 people living in South Ossetia at the time (63,200 Ossetians; 28,500 Georgians; 2,100 Russians; and 900 of Jews). As of 1989 the number of Ossetians in Georgia totaled 165,000, or 3% of the population. Some 100,000 Ossetians lived in inland Georgia, with the largest communities living in Tbilisi, Gori and Rustavi. The legal status of South Ossetia in the pre-crisis period was regulated by the law on the South Ossetian Autonomous Region, adopted in 1980.¹

The conflict passed through several stages: from a local confrontation little known and of little interest to the world community, to an event of international significance. *The first stage of the conflict* (1988-89) might be called ideological. During this period, the conflicting parties identified their claims against each other and composed plausible ethno-political guidelines for a future conflict. For example, Georgian historians and journalists began describing the Ossetians as “strangers in the Georgian land” who migrated from the North Caucasus. Their Ossetian counterparts intensively exploited the thesis about the “common Alan heritage” of the two Ossetias (North Ossetia in Russia and South Ossetia in Georgia).² The Georgian national movement for independence endeavored to establish a new Georgian state within the borders of the former Georgian SSR. At the same time its leaders were rather suspicious of the autonomies considering them as artificial entities and Moscow’s instruments for exerting pressure on Georgia. They failed to engage the autonomies and national minorities in a common movement based on democratic civic values. Thus since the late 1980s the movement for Georgian independence became pretty nationally exclusive. This line of action was especially risky in the autonomous regions which had their own power structures and also the means for mass mobilization. The South Ossetian leaders became afraid of discrimination in the newly established independent

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- 1 Skakov, Alexander. South Ossetia: Demography, Economy, Policy [in Russian], *Georgia: Its Problems and Perspectives II* (2002), p. 167.
 - 2 Tsutsiyev, Artur. *Atlas of the Ethnopolitical History of the Caucasus (1774-2004)* [in Russian] (2006). Evropa, Moscow, pp. 111-117.

Georgia. In contrast to Georgian nationalists the South Ossetian elite wanted to preserve South Ossetia's autonomous political and legal status as guarantees for safeguarding their national rights. The elite also remembered the negative historical experience of 1918-1920 when peasant rebellions in South Ossetia, supported by the Bolsheviks, were suppressed by the authorities of the Georgian Democratic Republic. Moreover having of the other side the Caucasus mountains a kin ethno-national entity in Russia (North Ossetia) the South Ossetian leaders in the circumstances of declining USSR were eager to implement jointly with the North Ossetians their right for self-determination.

The second was a political-legal stage (1989-91) was marked by two years of a legalistic ("status") struggle between Georgia's central authorities and the South Ossetian leadership. On 20 September 1989, the Georgian Soviet Socialist Republic published draft which laws infringed upon the rights of the South Ossetian Autonomous Region. Two months later, on 10 November 1989, at a session of the Council of the South Ossetian Autonomous Region the People's Deputies raised the region's status to an Autonomous Republic within Georgia. Tbilisi was outraged by the move which unilaterally gave South Ossetia a higher status. On 16 November 1989, the Presidium of the Supreme Soviet of the Georgian Soviet Socialist Republic annulled the decision of the South Ossetian Autonomous Region Council. A week later, in a reprisal thousands of Georgian nationalists staged a march to Tskhinvali, the capital of South Ossetia, which claimed first casualties. The subsequent event played a key role in the escalation of the conflict. On 11 December 1990, Georgia's Supreme Soviet abolished the South Ossetian Autonomy. Simultaneously, the Soviet authorities declared a state of emergency in the South Ossetian Autonomy while the Georgian government imposed a blockade on South Ossetia.

During *the third stage* (between January 1991 and July 1992), armed clashes broke out between Georgia and South Ossetia. On 6 January 1991, troops of the Soviet Interior Ministry left Tskhinvali for their barracks and six-thousand Georgian militants invaded the city causing destruction and killing civilians. In the course of the hostilities in February – March of 1991, and in June 1992 the capital of South Ossetia suffered three assaults. One hundred villages were burned and more than 1,000 people were killed in the fighting. North Ossetia, Autonomous Republic in the Russian Federation, was dragged into the conflict. It was flooded with 43,000 refugees from South Ossetian and Georgian districts. Moscow could not the directly control North Ossetia's actions. Moreover, Vladikavkaz threatened that it would not sign a new federal treaty unless in one form or another Moscow supports South Ossetia. In late May 1992 North Ossetia shut down the pipeline running to Georgia.

On 24 June 1992, Russian President Boris Yeltsin and Georgian President Eduard Shevardnadze signed the Dagomys (Sochi) accords on the principles

of settling the Georgian – South Ossetian conflict. A peacekeeping operation began on 14 July when the Russian Federation, Georgia and North Ossetia deployed their peacekeeping contingents in the area, and the Joint Control Commission (JCC) was set up to monitor the ceasefire arrangements. The armed conflict was thus “frozen” signifying the beginning of *the fourth stage* which continued until May 2004. Until August 2008, unlike in Abkhazia, South Ossetia had not seen large-scale ethnic cleansing of the Georgian population as the Georgians and the Ossetians lived peacefully side by side. The Constitution of the self-proclaimed Autonomous Republic of South Ossetia recognized Georgian as a minority language. In 1992 exchanges of fire, blockades and provocations were stopped, and a relative peace was imposed. Until 2004 a direct bus line had operated between Tbilisi and Tskhinvali. In places like Ergneti the Georgians and the Ossetians traded on the markets side by side. Georgia and South Ossetia mutually recognized license plates on cars crossing the borders. It should be noted that in the post-war conditions smuggling constituted the backbone of the economy of the country with a “deferred status”, and that traders from both ethnic groups were involved in smuggling. This shadow economy strongly attached South Ossetia to Georgia, and was also a major – albeit informal – confidence-building activity improving the relations between the two communities in conflict.

North Ossetia’s President Alexander Dzasokhov (elected in 1998) should be credited with playing a key role in easing tensions, often through direct informal contacts with Eduard Shevardnadze, who was his colleague in the former Central Committee of the Communist Party of the Soviet Union. Moreover, a considerable positive experience had been accumulated during the 12 years. The peacekeeping mission had been jointly managed by the Russian and the Georgian military and secondly, important documents were signed providing for rehabilitation of the conflict area. Of special note are the “Memorandum on the Security and Confidence-Building Measures” signed on 16 May 1996 by the parties in the conflict and the Russian – Georgian intergovernmental agreement of 3 December 2000, on rebuilding the economy in the zone of the Georgian – Ossetian conflict, and on the return of refugees.

The fifth stage can be described as “unfreezing” of the conflict. It began with attempts by Tbilisi to change the balance of forces along the border with South Ossetia and the political-legal format of *de facto* peaceful coexistence. The “Rose Revolution” in Georgia in October-November 2003 and Mikhail Saakashvili’s landslide victory in the presidential election in January 2004 (he obtained a stunning 97% of the votes) stimulated by a “patriotic” uprising similarly as in the 1990s. In their speeches, Saakashvili and his associates appealed for rebuilding one Georgia and calling to take revenge for the “national humiliation” in South Ossetia and Abkhazia. On 31 May 2004 the Georgian government, without consulting the JCC, dispatched 300 soldiers of

a special task force to South Ossetia on the pretext of combating smuggling. Other JCC partners branded the move as a breach of the Dagomys accords of 1992. Georgia then accused the Russian peacekeepers of an ethnic bias and of crimes. On 20 July 2004, the Georgian president publicly declared that he did not rule out a revocation of the Dagomys accords: "I'm not prepared to recognize those agreements which prohibit us to display our national flag in the centre of Georgia. If Shevardnadze's signature is under them I'm ready to scrap them and to effect their termination".³ Saakashvili's statement indicated three goals he was striving to achieve: i) internationalize the Georgian – Ossetian conflict by involving the US and European countries in its resolution; ii) instead of a Georgian – Ossetian to present the conflict as a Georgian – Russian one and as a manifestation of Russian neo-imperialism; iii) terminate Russia's role as the exclusive guarantor of peace in the region.

The realization of these goals became the quintessence of the fifth stage of the Georgian – Ossetian conflict. On 8-19 August 2004 a second war broke out in South Ossetia. In this confrontation the parties did not use only small arms, but also artillery. Although the warring sides, stopped fighting briefly by the end of the month, August 2004 marked the beginning of a new wave of shelling, attacks, provocations and blockades of vital lines of communications. From that time onwards, "small incidents involving the military" became daily routine on the border with South Ossetia.

This brief war was a turning point in the Russian policy towards the region. Until 2004 Moscow had been anxious to remain unbiased, neutral, and maintain the status quo which it regarded as the best way option. After 2004 the Russian Federation having realized that the security of entire North Caucasus depended also on the situation in South Ossetia, *de facto* sided with the self-proclaimed republic. Firstly, Moscow began to view Tskhinvali as an instrument to influence Tbilisi – which, by then, had embarked not only on a very pro-American, but also on an anti-Russian path. Secondly, the loss of South Ossetia became to be seen as a threat to the Russian Federation itself. The Ossetian – Ingush conflict, which still remains unresolved, has been closely linked to the tensions around the self-proclaimed republic. In 2005-06, the Georgian parliament adopted several resolutions ("Regarding the Current Situation in the Conflict Regions on the Territory of Georgia and Ongoing Peace Operations" of 11 October 2005, "On the Current Situation in the Former Autonomous District of South Ossetia and Ongoing Peace Process" of 15 February 2006, "On the Peacekeeping Forces Located on the Territory of Georgia" of 18 July 2006) which branded the Russian peacekeeping mis-

3 See "Georgia Threatens to Withdraw from the Treaty on Ossetia" [in Russian], *BBC Russia*, 20 June 2004, http://news.bbc.co.uk/1/hi/russian/russia/newsid_3911000/3911101.stm.

sion as “extremely negative”, and actions by the Russian Federation as “permanent efforts aimed at annexation of this region of Georgia”.⁴

In autumn of 2006 Tbilisi launched the project of “an alternative South Ossetia” headed by Dmitry Sanakoyev, a former prime minister and defence minister of that non-recognized entity who did not have any support in the Tskhinvali-controlled areas. The purpose of the project was to transform the negotiating process by circumventing the direct dialog with Tskhinvali. In March 2007, Tbilisi set up a provisional administration for the territory of South Ossetia, thus effectively terminating talks with Tskhinvali. Tbilisi tried to achieve international legitimacy for Sanakoyev who took part in gatherings in Strasbourg and Brussels, and in contrast with Eduard Kokoity was presented as a “positive and cooperative” representative of the South Ossetians.

The policy of “unfreezing” culminated in the transfer of the Georgian peacekeeping battalion, formerly under the command of the JCC, under the control of the Georgian Defence Ministry and in repeated threats by Georgia’s Reintegration Minister Temuri Yakobashvili to withdraw from the existing framework of conflict management. In addition, in July 2006, Georgia, in violation of the “Basic Moscow Agreement on the Ceasefire and Disengagement” of 14 May 1994, deployed its army and police units in the upper part of Kodori Gorge in Abkhazia which was declared a demilitarised zone by the Moscow agreement. The *status quo* was therefore breached also in Abkhazia. The conflicting parties stopped negotiating.

Georgia’s strong (and not always effective) actions in 2004–08 are difficult to explain without taking into account an external factor, although not a decisive one. In 2003 its frustrated public opinion deeply disappointed by Shevardnadze’s rule, embraced the idea of a strong Georgia, meaning a territorially united country. The military-technical assistance and diplomatic patronage, mainly by the US, as well as closer ties with NATO misled Georgia’s leadership to believe that the West would approve and support its actions for reintegration of the country. Tbilisi felt increasingly confident that the US and their allies would turn a blind eye on its violations of peace accords with South Ossetia and Abkhazia. It also expected the West to react only half-heartedly to the backtracking from democratic standards inside Georgia itself. Such actions included the police crackdown on 7 November 2007 and the use

4 See Parliament of Georgia, *Resolution of the Parliament of Georgia Regarding the Current Situation in the Conflict Regions on the Territory of Georgia and Ongoing Peace Operations*, Tbilisi, 11 October 2005, http://www.parliament.ge/index.php?lang_id=ENG&sec_id=98&info_id=7268; Parliament of Georgia, *Resolution of the Parliament of Georgia on the Current Situation in the Former Autonomous District of South Ossetia and Ongoing Peace Process*, Tbilisi, 16 February 2006, http://www.parliament.ge/index.php?lang_id=ENG&sec_id=98&info_id=9732; Parliament of Georgia, *Resolution of the Parliament of Georgia on the Peacekeeping Forces Located on the Territory of Georgia*, Tbilisi, 18 July 2006, http://www.parliament.ge/index.php?lang_id=ENG&sec_id=98&info_id=13089.

of administrative pressures on the opposition during the elections in 2004 and in 2006. In 2008, Moscow also contributed to the “unfreezing” of the conflicts in Georgia. On 21 March, the Russian State Duma adopted a resolution which set out two conditions for a possible recognition of Abkhazia’s and South Ossetia’s independence. These were Georgia’s accession to NATO and the use of force against the two self-proclaimed republics.⁵

In April 2008, the outgoing Russian president Vladimir Putin, instructed his federal authorities to provide “substantive assistance” to the people of South Ossetia and Abkhazia. The instruction envisioned, among other things, the establishment of direct official contacts between Moscow and Tskhinvali and Sukhumi. In its immediate and verbally tough response the West declared that it supported Georgia’s territorial integrity.

In fact however the status quo had been disrupted on a number of occasions in South Ossetia, and to a lesser extent in Abkhazia already prior to 7 August 2008. As a result of armed clashes in 2004, some 70 people died, while in subsequent years (according to different estimates), the number of deaths on each side totaled about 100. However August 2008 saw a qualitative change. The escalation of violence led to a Georgian massive armed assault on Tskhinvali and a very tough response by Russia which apparently was unexpected by both Tbilisi and by the West. The long-simmering conflict between Georgia and South Ossetia thus escalated in to a five day war in August and became the third armed confrontation between Georgia and South Ossetia since the early 1990s. Saakashvili’s military-political adventure and Russia’s direct intervention in the Georgian – Ossetian conflict stemmed from the preceding stage of “conflict unfreezing”. Until 26 August 2008 the Russian Federation officially recognized South Ossetia as legally part of Georgia.

However, the fighting in August 2008 differed markedly from the two previous conflicts. Unlike individual Russian servicemen who acted spontaneously in the Georgian – Abkhazian war of 1992-93, Moscow this time directly ordered and guided the Russian army’s attacks calling it “an operation to compel Georgia to peace” and to save the Ossetian people from a full-scale humanitarian disaster. Unlike in the previous Georgian – Ossetian confrontations (in 1991-92, 1992-93 and 2004) the US and the EU were diplomatically involved in the conflict. Ukraine tried to play a role in Abkhazia but was prevented by the interpositioned Russia’s Black Sea Fleet – which participated in the operation in Abkhazia.

For the first time Tbilisi was simultaneously fighting then on two fronts its two separatist provinces – Abkhazia and South Ossetia. The events in and around South Ossetia made headlines in international media. At the outset of

5 See “*The State Duma Made the Statement on Russia’s Policy to Abkhazia, South Ossetia and Transnistria*” [in Russian], *Regnum*, 21 March 2008, <http://www.regnum.ru/news/975032.html>.

the five day war, the UN Security Council was convened three times to discuss the situation in the Caucasus. For the first time since the armed conflict between Armenia and Azerbaijan over Nagorny Karabakh in 1991-94, Western mass media published alarming forecasts of the Caucasus possibly provoking a new big war.

Over the entire course of the conflict Russia has changed its status and role. In 1992-2004 it tended to act as a peacemaker and mediator supporting officially the territorial integrity of Georgia. Facing the Chechen separatist challenge in the early 1990s Moscow was interested to develop positive and constructive relationship with Tbilisi also in the form of security and military cooperation. In 1996 Kremlin negatively reacted to the South Ossetian decision to establish the institution of a President and to organize presidential elections. However some attempts by Tbilisi, especially in 2004-2008, to “unfreeze” the conflict through revising the format of peacekeeping and decreasing the Russian role in the process of its management contributed to a radical change in Moscow’s behaviour. Since 2004 Russia started moving from the position of a peacekeeper to that of the patron of the secessionist entity. By having recognized South Ossetia’s independence in August, 2008 Russian leadership completed this evolution.

Thus in 2008 a new *status quo* was formed. The Russian Federation guarantees today the security and economic revival of South Ossetia who enjoys its new status somewhere between that of a Russia’s region and partial independence. According to the Presidential Envoy to the Federal District North Caucasus Alexander Khloponin, Russia’s financial aid to South Ossetia in 2008-2013 amounted to about 34 billion rubles (just over U.S. \$ 1 billion).⁶ Moscow’s financial and security influence has substantively grown. At the same time it created tensions between Kremlin and Ossetia’s leadership because it infringes on South Ossetian internal politics. The political impact of the “Georgian factor” on the South Ossetian domestic scene has been marginalized. The 2011 presidential elections clearly demonstrated that under current conditions the labeling of opponents as “pro-Georgian” does not effectively bring political benefits. As main gains from independence the South Ossetian population desires a better professional quality of officials, their higher legitimacy and a more transparent political process.

Tbilisi, on the other hand, has not really changed its basic approach to South Ossetia considering it an “occupied territory” and viewing the South Ossetian leadership as Russian “puppet figures”. The current Georgian government has nevertheless publicly spoken in favor of a direct dialogue with the South Ossetian people. However this potentially highly positive idea looks insufficient unless the relevant Georgian legislation is corrected and the status of South Ossetia thoroughly revised. Unlike Abkhazia South Ossetia

6 Khloponin: *the Russian financial aid reached 34 billion rubles*, <http://www.newsru.com/finance/19jul2013/sosetiarumoney.html> (19-7-13).

has extremely limited resources for its development (no access to the Black sea, the absence of wealthy and influential diaspora, the lack of its own natural resources) as well as the precarious position between Georgia and the Russian Federation. This situation however does not make easier its reconciliation with Georgia especially taking into account the grave consequences of armed clashes since 1991 and numerous unresolved political, economic, humanitarian and other problems. The prospects of conflict resolution depend largely on advances in the Russia-Georgia normalization relations. The resolving of outstanding humanitarian issues (trans-border traffic, trade, education, health care and so on) and a dialogue between the Georgian and South Ossetian civil societies would certainly help in this respect. "Small steps" in promoting confidence-building could create fundamental prerequisites for a constructive discussion on such touchy subjects as South Ossetia's political and legal status.

The most important consequence of the war in 2008 was Moscow's official recognition of Abkhazia's and South Ossetia's independence. The two formerly autonomous republics of Georgia have thus joined the group of partially recognized independent states. They might never be admitted to UN but have established close, full-fledged relations with a Eurasian great power who is a member of the nuclear club and a permanent member of the UN Security Council. Both Abkhazia and Southern Ossetia signed in 2014-2015 far-reaching treaties on close economic and political cooperation with the Russian Federation, also in defense and security-related matters. Abkhazia's and South Ossetia's growing dependence on Russia has provoked anxiety in the West concerning the obvious restoration of Russia's strong influence over the post-Soviet space. The South Ossetian situation has been considered in a broader framework of Moscow's foreign policy in Eurasia and of its relationship with the West. However Moscow apparently does not intend to legally incorporate South Ossetia into the Russian Federation.

Comments

David Matsaberidze

The chapter written by Sergey Markedonov is not a problem-based paper but rather a general review or description of different stages in the South Ossetian conflict. My remarks will concentrate on the author's vision of the conflict and on some questionable formulations and debatable interpretations suggested by him.

The author states, for example, that Georgian refugees fled from the *South Ossetian and Georgian districts* but his meaning is unclear. Does he refer under Georgian districts to the areas in the South Ossetian AO populated predominantly by ethnic Georgians? Similarly, the statement that *the Kremlin could not directly control North Ossetia's actions* needs clarification. Does he refer to the considerable weakening of Moscow's central power in the early 1990s to control the periphery of the Russian Federation? Additional explanation is needed also for the author's statement that "*unlike Abkhazia, South Ossetia never saw large-scale ethnic cleansing of the Georgian population*". This point might be partially valid for the period prior to 2008. This was due to the fact that in the South Ossetian AO the villages populated by the Georgians or by the Ossetians were clearly demarcated. However August 2008 witnessed a forcible removal of the entire Georgian population from the previously Georgian villages in the former South Ossetian AO. Moreover the author should have quoted relevant articles of the Ossetian Constitution to support his claim that the Georgian language has the status of a minority language in the self-proclaimed Republic of South Ossetia. Another questionable point in the text is related to the implementation of the *Memorandum on Security and Confidence-Building Measures between the Parties to the Georgian-Ossetian Conflict*. According to its provisions Georgia was entitled to deploy up to 1500 soldiers in the joint peacekeeping unit but until 2004 had not used in full its quota. Contrary to the author's assessment the filling of the Georgian quota did not alter the balance of deployed military forces in the region. I also disagree with his statement that "*until 2004, Moscow had been anxious to remain unbiased and neutral*". Had she been really unbiased? Quite the opposite, at different points since the early 1990s she has in fact contributed to periodic deterioration of the political situation in South Ossetia (and in Abkhazia).

Likewise I do not agree with the description of the Saakashvili's government's early activities related to the conflict which he qualified as *Tbilisi's revenge in Abkhazia and South Ossetia*. Until the breakout of the Russian-Georgian War in August 2008 in Tskhinvali Region Saakashvili and other

Georgian politicians never spoke of or called for a revenge against the South Ossetians (and the Abkhazians). Quite to the contrary, the central Georgian authorities periodically repeated that a solution of the conflicts should come through peace initiatives and a dialogue between Georgian and Abkhazian/S. Ossetian representatives. Corresponding peace proposals were also presented by them for discussion. Tbilisi's last peace initiative was made shortly prior to the August War of 2008. Tbilisi proposed later to change the format of relations with South Ossetia involving in them also the European Union. The author's statement on the intended revenge by Tbilisi is thus untrue.

In the concluding paragraph the author presents a rather balanced picture of developments which gradually culminated in the "unfreezing" of the conflict. The periodic exchange of fire between military units of the central Georgian government and of Ossetian paramilitaries had periodically taken place since 1994 but did not lead to a full-scale war and to a Russian military intervention as it happened during and after August 6-8, 2008. The hostilities in August 2008 should be accurately called not an armed conflict between Georgia and South Ossetia but that between Georgia and the Russian Federation. And last but not the least, since August 2008 there has been nothing substantively new in the relations between South Ossetia and the Russian Federation except a different legal facade.

Recommendations¹

International Crisis Group

In order to improve the security environment we recommend that all participants – Georgian, Russian and Abkhaz – in the Geneva International Discussions:

1. Agree to a draft statement at the Geneva International Discussions on the non-use of force.
2. Resume participation in the Gali Incident Prevention and Response Mechanism (IPRM), at an expert level initially if that is the most suitable, and in its joint fact-finding missions when violent incidents occur.
3. Better provide for internally displaced persons (IDPs).

The Georgian Government:

4. Suspends efforts to secure annual UN General Assembly resolutions on IDPs.

The Abkhaz authorities:

5. Re-engage fully in the Working Group II of the Geneva International Discussions and seriously engage in a good-faith discussion of mechanisms to begin addressing property return and compensation for IDPs and refugees.
6. Improve conditions for other persons affected by the conflict.

The Georgian, Russian and Abkhaz authorities:

7. Guarantee freedom of movement for goods and people across the ABL, open new crossing points and remove bureaucratic impediments to movement.
8. The Abkhaz authorities should lift legal and practical obstacles to Georgian language education in the ethnic Georgian Gali region, and take steps to include local Georgians in administrative, government and police structures.
9. Georgia should continue to modify legislation and practices related to its “law on occupied territories” that limit free movement of goods and people in and out of Abkhazia; and encourage its interna-

1 *Europe Report No. 224*, 10 April 2013, Executive summary and recommendations, <http://www.crisisgroup.org/en/regions/europe/south-caucasus/georgia/224-abkhazia-the-long-road-to-reconciliation.aspx> (19-8-13).

tional partners to facilitate the issuing of visas especially, but not only, for residents of Abkhazia wishing to study abroad.

10. Russia should fully implement the ceasefire agreements and strictly control all transfers from its federal budget to limit corruption.
11. Improve Abkhazia's external access and exposure.

We recommend that the international community, in particular the UN Development Programme (UNDP), the Organisation for Security and Cooperation in Europe (OSCE) and the European Union (EU):

12. Strengthen the very limited international presence in Abkhazia. For example, the EU should offer to expand its police liaison activities; open an EU information point in Sukhumi; and begin implementing its new assistance program focusing on health, education and improving local livelihoods, while the Abkhaz authorities should not rebuff these efforts and others that increase access and exposure to foreign expertise.
13. Conduct a comprehensive study on the feasibility of redeveloping regional economic and transportation corridors, including rail, road and sea transport, between Abkhazia, Georgia and other regional hubs.

Azerbaijan vs. Nagorny Karabakh

The elusive search for resolution of the Nagorny Karabakh dispute

Thomas de Waal

The conflict between Armenians and Azerbaijanis over the highland region in the South Caucasus known as Nagorny Karabakh is the longest-running ethno-territorial dispute in the post-Communist world. It erupted in its present form in February 1988, when there were no signs of trouble in the Baltic States, Georgia, Kosovo, Croatia or Bosnia. Other conflicts have come and gone, but Karabakh has remained unresolved. In 1994, the Armenian side won a military victory on the ground, gaining control of not only almost all of the disputed territory of Nagorny Karabakh itself, but, wholly or partially, seven Azerbaijani regions around it. But the dispute carries on, as Azerbaijan does not renounce its claim to a land that is recognized internationally as being *de jure* part of its territory and uses all levers it can to try and reverse the status quo.

Since March 1992, when the fighting was at its height, the conflict has been mediated by the so-called Minsk Group of the Organization for Security and Cooperation in Europe (OSCE, up until December 1994 the CSCE). Many negotiators have come and gone and several have said they were close to declaring success. The continuing pattern of non-resolution and failed mediation over more than 20 years makes the efforts to solve the Karabakh conflict resemble the myth of Sisyphus: many times the heavy stone of peace has been rolled up near to the top of the hill but it has always rolled down again.

June 2011 saw the most recent intense international effort to push the stone over the hill, with Russia's President Dmitry Medvedev convening a meeting of President Ilham Aliyev and Serzh Sarkisian in Kazan to persuade them to agree to so-called Document on Basic Principles, a short framework agreement of 14 points that had been under discussion since 2006. If a deal can be made on the document – a possibility that many people discount given the relations between the two sides –, it would be a major achievement. But even that would only be the beginning of a more comprehensive peace process, with many more episodes in it.

Since the failure in Kazan in 2011, the situation has got worse, not better. The international context has not improved. In 2012 the return of Vladimir Putin to the Kremlin as president of Russia signalled a lowering of priorities by Moscow in the negotiating process. Where Medvedev had made achieving a success over Nagorny Karabakh a strategic goal, Putin made it clear was focused on other issues and appears content to see the conflict “man-

aged” rather than resolved. This cynical approach was underlined by the fact that Russia has sold weapons to both sides in the conflict.

The Ukraine crisis diverted international attention from the conflict, at least until a small outbreak of violence in the summer of 2014. The quarrel between Moscow and its Western colleagues in the Minsk Group posed a new challenge to the capacity of the mediators to work effectively together. Although the format of three Minsk Group co-chairs has survived as has the “Basic Principles” plan they collectively endorse, levels of cynicism in the region about the conflict have reached new highs.

Inside the region itself, each side has sought to entrench its position. The Armenian side busies itself with “normalizing the facts on the ground” – they continue to build infrastructure in Nagorny Karabakh itself and road links between Karabakh and Armenia. In 2012 construction was finished on a new airport in Karabakh itself and announced it intended to receive civilian flights from Yerevan. This provoked an angry reaction from Baku that such a move would be in contravention of the Chicago Convention on international flights and that it would take action if an airplane did fly to Karabakh. International actors warned both sides not to inflame the situation, telling the Armenians not to undertake any flights and the Azerbaijanis not to threaten Armenian aircraft if a flight did take place. However, both sides appeared to have boxed themselves in and raised the possibility of an armed clash.

The main change in the region is the growing perception by Azerbaijan of its own strength. Azerbaijan now spends more than \$4 billion a year on its military: the figure was a deliberate target by the government in Baku, which wanted to be able to declare that it had a military budget higher than the entire Armenian state budget. This has been coupled with increased diplomatic muscle. In January 2012 Azerbaijan became a non-permanent member of the United Nations Security Council. It now has more than 50 consulates and embassies worldwide.

This has not strengthened Azerbaijan’s objective situation vis-a-vis the Armenians. However it has hardened attitudes and reduced the scope for compromise. This hard-line attitude has manifested itself in two provocative moves that have hurt Azerbaijan’s image abroad and weakened the peace process.

The first was the pardoning of convicted murderer Ramil Safarov in August 2012. Safarov had been serving a life-sentence in prison in Hungary after he killed Armenian officer Guren Margarian on a NATO English-language course in 2004. In circumstances that have thus far not been fully explained, Hungary agreed that he be returned to Azerbaijan on condition that he serve out the rest of his sentence in prison. Instead, as soon as he arrived in Azerbaijan, Safarov was pardoned, given a promotion and a free apartment in Baku and treated as a hero.

The pardoning of Safarov, whose only claim to fame was to have killed a sleeping man, dealt a heavy blow to the peace process. Naturally there was an outraged reaction in Armenia. There was also international condemnation, with the White House saying that President Obama was “deeply concerned” by the pardon.

Five months later, the government in Baku put out another aggressive message this time in relation to the writer Akram Aylisli. Aylisli, a revered writer from the Soviet era, published a novel in Russian entitled *Stone Dreams* (*Kamennye Sny*) in which he depicted Azerbaijani violence against Armenians and portrayed Armenians in a positive light. He was publicly vilified for this breaking of a taboo. He was stripped of state awards, his wife and son were dismissed from their jobs and he was attacked in the media. By encouraging this, the Azerbaijani government was publicly attacking the idea of compromise with Armenians.

The summer of 2014 saw the worst violence on the Line of Contact separating the armed forces of the two sides in 20 years. Although figures were hard to verify, it seems likely that more than 30 Armenian and Azerbaijani soldiers had died in a few days, or more than in all of 2013. Several of those who died had been born after the ceasefire agreement of May 1994 was signed.

A meeting arranged by President Putin in Sochi saw both leaders agree to de-escalate tensions on the ceasefire line. But there was no progress on the major issues in the negotiations. Despite Putin’s intervention, the rhetoric continued. President Aliiev took to his Twitter account to broadcast a barrage of 47 aggressive Tweets against Armenia. President Sargsyan told a television interviewer on his return from Sochi that his missiles were capable of reducing Azerbaijani cities to ruins.

In this article [the first version was published in November 2011] I outline reasons why the Karabakh conflict has so far eluded resolution and a brief summary of more positive factors which are cause for hope that it can still be resolved.

A Soviet Legacy

The Nagorny Karabakh conflict was not created by the Soviet Union and indeed the region enjoyed inter-ethnic peace and stability for most of the Soviet period. But the Soviet experience has defined the modern contours of the problem.

Geography underlies the conflict: a region with a large Armenian population and a long Armenian history lies geographically within the territory of Azerbaijan and also contains a city, Shusha, with a strong Azerbaijani heritage. Following the collapse of the tsarist empire in 1917-18, the region was

the location for a bloody Armenian-Azerbaijani conflict, which ended when the Bolshevik Eleventh Army conquered the region in the summer of 1920. In 1921 the Bolshevik Caucasus Bureau, meeting in Georgia, declared a compromise that pleased neither side: a new autonomous province of Nagorny Karabakh, with an overwhelming Armenian majority, was to be established inside the territory of new Soviet Azerbaijan. In 1923, the Nagorny Karabakh Autonomous Region (NKAO in the Russian acronym) was created with Armenians constituting 94 per cent of the population.

The Bolsheviks congratulated themselves for ending a civil war and declared that socialist brotherhood would erase ethnic distinctions. But NKAO was an unstable arrangement which caused occasional rumblings of discontent in Soviet times. It was one of only two instances within the Soviet system in which a province with a strong ethnic affiliation to one Union Republic (Armenia) was located within the borders of another Union Republic, (Azerbaijan). (The other example, Crimea after 1954, also caused tensions, but has remained peacefully primarily because Russians and Ukrainians are closer and much more inter-mixed than are Armenians and Azerbaijanis). After the 1920s, the concept of autonomy became increasingly devalued in the Soviet system, with power being exercised mainly from Moscow and from the capitals of the Union Republic. In the case of Nagorny Karabakh, that meant that local Armenians said they felt like second-class citizens inside Azerbaijan and in the post-war period, Baku worked to "Azerbaijanify" its Armenian province. In the last Soviet census of 1989, the Armenian proportion of the population of NKAO had fallen to three quarters of the total.

The Soviet Union's rigid political system made its ethno-federal structures strong but brittle. The vertical power relationships of the Soviet system meant that there were almost no mechanisms for mediating problems between the Karabakh Armenians and Baku. Instead, each side petitioned its patrons in Moscow for support. In 1988, the Karabakh Armenians directed their appeal to leave Soviet Azerbaijan and join Soviet Armenia to Moscow, while Baku in turn asked Moscow to rule in its favour – which it did. However, the central Soviet arbiter grew weaker and increasingly unable to control the situation on the ground. Low-level violence gradually escalated into full-scale war.

The Soviet legacy persists in a number of ways. Leaders operate in an authoritative secretive manner, not seeking to build consent or take advice from people below them. Many ordinary people accept the passive role they are given: they still expect a higher arbiter to rule in their favour, rather than seeking to engage in dialogue with people on the other side of their conflict. This in turn shapes a negotiating process which is very closed, monopolized by the elites and has almost no public dimension. Both leaderships, especially the Azerbaijani side, discourage Track II activities that do not directly support their own positions.

An Issue of Identity

In 1991 Armenia and Azerbaijan were both forged as new independent states in the crucible of the Karabakh conflict. The conflict is memorialized as a symbol of victory and survival on the Armenian side and of martyrdom and loss on the Azerbaijani side.

Leaders rose and fell as a result of the conflict. The first leaders of post-Communist Armenia, with Levon Ter-Petrosian at their head, rose to prominence in 1988 as members of the so-called Karabakh Committee, who defied the Communist Party authorities on this issue. The Popular Front opposition in Azerbaijan came to power in 1992 on a wave of dissent triggered by the way the post-Communist elite in the newly independent country handled the conflict.

The national discourse of both countries sees the state as being incomplete without Nagorny Karabakh. Armenian and Azerbaijani historians, writers and journalists are deployed to legitimize the claims of one side and de-legitimize the claims of the other. For Armenians, Nagorny Karabakh is a historic eastern outpost of Armenian self-rule, symbolized by numerous churches and the legacy of the melik princes who ruled the region in medieval times. In this narrative the unrecognized Nagorny Karabakh Republic continues an unbroken tradition of Armenian rule here. For Azerbaijanis it is the seat of the old city of Shusha, capital of a khanate founded in the 18th century and an essential part of the Azerbaijani state. Azerbaijani coins bear on their reverse a complete map of Azerbaijan and the nightly weather forecast on television informs viewers of the weather in the province.

These narratives are so powerful that appeals to rational self-interest or the promise of economic prosperity are not successful. Indeed, the main attempt to resolve the conflict through economic incentives failed. This was the special administration, run by an envoy from Moscow Arkady Volsky, which was put in charge of Nagorny Karabakh in 1989-90 and which was given a large budget to effect an economic "renaissance" there. Volsky's attempts to tie Armenians and Azerbaijanis together with economic projects could not compete with two nationalist movements intent on cutting those ties. Theoretical scholarship on conflict increasingly confirms this thesis in reference to other disputes. In his recent groundbreaking study on successful historic normalization processes, "When Enemies Become Friends", Charles Kupchan writes of the 20 cases he studies that it is "striking" to observe "the causal insignificance of economic integration during the early phases of stable peace." In only one case out of 20 (German unification in the mid-19th

century), Kupchan notes, has economic integration been a factor driving a peace process.¹

In Armenia and Azerbaijan in the past five years two new narratives have embellished the nationalist discourses. Azerbaijan now calls itself a successful and prosperous oil and gas power, which has an indispensable role in the future of European energy security.

In a speech in Baku in May 2011 President Ilham Aliiev said,

The rate of Azerbaijan's economic development in the last seven years has been unparalleled in the world. Our economy has grown almost three times. Industrial production has increased threefold and poverty reduced five times. We already have extensive financial opportunities. Our economy is already diversified. At the same time, our energy policy rests on the oil strategy determined by Heydar Aliyev. This strategy has been aligned with modern requirements and enriched.

Today Azerbaijan is playing an important part in energy security not only in the region but also on the continent. Our initiatives, the proposals we are making and the projects we are implementing are not only strengthening our country, but also creating wonderful conditions for regional cooperation.²

On the Armenian side, there is now a strong narrative that Nagorny Karabakh has emerged as a self-sufficient state, whether it is recognized or not, and that secession is a fact in modern Europe, following the widespread recognition of Kosovo by other states. In the same month as Aliiev made his speech, Armenian president Serzh Sarkisian said in an interview to a Russian newspaper,

As a precedent, yes, creation of new states does have a positive impact on the world's perception regarding the right of the NK people. And it's not about our recognition of the state sovereignty of Kosovo, Southern Sudan, Abkhazia or South Ossetia; it's about the fact that the international community in different combinations accepts that in this or that particular case separation is a legal form for the realization of the right for self-determination.³

Possession of territory on the ground has also led many Armenians down a slippery slope from talk of self-determination towards irredentism. Territories which were called a "security zone" or "buffer zone" are now commonly referred to as "liberated". In November 2010 it was reported that the authorities in Nagorny Karabakh had re-named the Azerbaijani town of Aghdam "Akna".

The issue of how to define the people at the centre of the conflict, the Karabakh Armenians, cuts to the heart of this clash of identities. In the Ar-

1 Kupchan, Charles. *When Enemies Become Friends* (2010). Princeton University Press, 399.

2 Ilham Aliyev attended the solemn ceremony, marking the 88th anniversary of national leader Heydar Aliyev, <http://en.president.az/articles/2140> (10-5-11)

3 Sukhov, Ivan. Serzh Sargsyan: 'Printsip territorial'noi tselostnosti ne oznachaet nezbyl'emost' granits'" ["Serzh Sargsyan: 'The Principle of territorial integrity does not mean the inviolability of borders'"]. In *Moskovskie Novosti*, http://mn.ru/blog_20_years_ussr/20110516/301913855.html (16-5-11).

menian narrative they are one party in the conflict who fought Azerbaijan to gain their freedom, supported by the Republic of Armenia. For Azerbaijanis, the conflict is an irredentist land-grab by the Republic of Armenia, with the Karabakh Armenians playing a mere supporting role.

Both narratives have elements of truth. On the one hand, the Karabakh Armenians are clearly distinct actors, who have a different history and outlook from Armenians from the Republic of Armenia, along with a dialect that is reportedly barely intelligible to fellow Armenians. At certain times, Karabakh Armenians have acted to defy the will of Yerevan. In May 1992, for example, they captured the city of Shusha right in the middle of Armenian-Azerbaijani negotiations in Teheran, sending a direct message of disapproval to the peace plan on offer. In 1993-94 Karabakh Armenian military commanders negotiated directly with Azerbaijani counterparts. In 1997, Karabakh Armenians moved to veto President Levon Ter-Petrosian's draft peace plan, leading to his eventual resignation.

On the other hand, Nagorny Karabakh is a small place whose current population is around 100,000. The only route in and out of the province is currently through Armenia. Karabakh Armenians travel abroad on Armenian passports. It could not survive economically or militarily without Yerevan. Only a small proportion of the 20,000 or so troops serving on the Armenian side of the Line of Contact come from Karabakh itself, the rest coming from the Republic of Armenia. Since 1998, two Karabakh Armenians, first Robert Kocharian and then (from 2008) Serzh Sarkisian have been presidents of Armenia, leading to jokes about how "Karabakh has occupied Armenia." This means that in many ways – although not all – Armenia and Karabakh are now one and the same.

Disputes about the status of the Karabakh Armenians have made the peace process extremely complex. Baku seeks to exclude Karabakh Armenians from all negotiations (something that has occurred at the political level) and stop all international contacts with Nagorny Karabakh. Yerevan tries to give the Karabakh Armenians maximum legitimacy and calls them a "third side" in the conflict (while also minimizing the role of the smaller Karabakh Azerbaijani community). It is hard to forge a peace when it is not even clear who the peace is between. A conceptual disentanglement is needed alongside political compromise.

A Political Instrument

The Karabakh issue consumes both domestic and foreign politics. It is probably the one issue in each country which is bigger than the leaders. It can make and break presidents. Azerbaijan's first president, Ayaz Mutalibov, lost power in large part because of the Khojali massacre of February 1992 during

the early part of the conflict. Subsequently, following the 1994 ceasefire, presidents on both sides tried and failed to persuade their inner circles to approve peace plans. In 1997, Armenian president Levon Ter-Petrosian approved a phased peace plan for Nagorny Karabakh in which the resolution of its status would be postponed to a future date. Key members of his cabinet joined with the Karabakh Armenian leaders to block the plan and to overthrow Ter-Petrosian, who was forced to resign as president in February 1998.

On the Azerbaijani side, Heidar Aliiev dominated the country for three decades and wielded unrivalled power. However, he twice had to beat a retreat after trying to endorse a peace agreement. In October 1999, three of his top advisers – foreign policy aide Vafa Guluzade, foreign minister Tofik Zulfugarov and the head of the presidential secretariat Eldar Namazov – all resigned because of their objections to the peace plan under discussion. In 2001, Aliiev travelled to the U.S.-organized peace talks in Key West, Florida, having negotiated the bulk of a new deal with his Armenian counterpart, Robert Kocharian, in intense secrecy. Aliiev gave details of what he had been discussing – in effect the yielding of Karabakh to Armenia in exchange for a corridor across Armenian territory to the exclave of Nakhichevan – only when he arrived at Key West. His inner circle was opposed and Aliiev began to retreat from the plan as soon as he returned to Baku.

The leaders use Karabakh as an instrument in domestic politics to assert their patriotic credentials, rally youth and the armed forces. Opposition parties use the conflict to burnish their own brand. This plays out in different ways on each side of the conflict. On the Azerbaijani side, the mainstream political opposition is increasingly marginalized. The Musavat and Popular Front parties who form the core of that opposition held power in the 1992-93 period during the hot phase of the conflict and are associated with a more radical position than that of the governing elite, whose father-figure, former president HeidarAliiev, agreed to a ceasefire in 1994 and negotiated seriously with the Armenians up until his death in 2003.

During the fighting in the summer of 2014, the Karabakh conflict became a reason to call on ordinary citizens to “rally round the flag”. Several of the pro-democracy activists arrested in Azerbaijan in 2014 were accused of working with the Armenians, or having Armenian relatives, as a means of discrediting them.

On the Armenian side, differences have narrowed between the governing elite, now led by President Serzh Sarkisian, and the main opposition, led by former president Levon Ter-Petrosian. Despite their many differences on domestic policies, the two movements hold almost identical positions on the Karabakh issue. The current Basic Principles document under discussion is basically an updated version of the peace plan Ter-Petrosian supported in 1997.

Armenian opposition comes from political forces, some of which have greater support in the Diaspora than in Armenia itself. The Heritage Party, led by U.S-born former foreign minister Raffi Hovannisian (who finished in a strong second place in the 2013 presidential election with 37 percent of the vote), has called on the Armenian government to recognize the Nagorny Karabakh Republic as an independent state. The old nationalist Dashnaktsutiun party, founded in 1890, is stronger outside Armenia than inside it and also has a strong representation inside Nagorny Karabakh. It strongly opposed the Armenia-Turkey normalization process of 2008-10 and opposes compromises with Azerbaijan. Both these parties will bring Diaspora influence to bear to oppose the current peace process.

The overall result of these domestic political disputes is that the governing elites in both countries, and especially in Azerbaijan, face criticism for being too soft on the other side in the conflict and little criticism for being too harsh. This encourages them to use nationalist rhetoric which then entraps them and limits their room for compromise in the peace negotiations.

Nobody's Backyard, Everybody's Problem

The South Caucasus can be characterized as “nobody's backyard”. It is an area of strategic interest to Russia, Turkey, Iran, the European Union and the United States but not a first-order priority for any of them. Compare this situation to the Balkans, in which, eventually, conflict could not be ignored by the European Union and the United States, leading to military missions comprising tens of thousands of men and reconstruction work costing billions of dollars.

As a consequence of this, the South Caucasus continues to be a region of competing interests of bigger powers and of political lobbies operating within those powers. None of the latter-day “Great Powers” have a unified strategic vision for the region as a whole. The EU does not hold out the prospect of membership. A series of agendas jostle for the attention of policy-makers. They range from the campaign of the grandchildren of Anatolian Armenians to have the killings of 1915 called a genocide to energy security, transit routes to Afghanistan or sanctions against Iran. The result is that the “tail wags the dog” and determined lobbying by actors in the region shapes policy. The local political elites are skilled at playing off the international actors and defending their own interests. To break this unhealthy dynamic there needs to be either grassroots democratization, which seems a fairly distant prospect, or else stronger and more concerted diplomacy by the bigger powers.

In the case of the Karabakh dispute, this fractured international agenda enables the presidents of both countries to resist international efforts to re-shape or broaden the Karabakh peace process. The two presidents do not want to

lose control of the process. They have been the main conductors of the negotiations, setting its tempo and ensuring it is a slow and closed process.

The years 1992-97 saw intense competition between Russia, which was the most active mediator, and Western negotiator, such that local actors complained that they were being forced to mediate between the mediators. Following the establishment of a tri-partite co-chairmanship in 1997, the three mediators, which have been the co-chairs of the OSCE Minsk Group since then, France, Russia and the United States, have managed to forge a shared agenda on the Karabakh conflict. But inevitably all of them, including Russia, are not prepared to re-deploy resources away from other issues, which are first-order priorities for them, onto a difficult and intractable conflict in the South Caucasus.

Discussing the Minsk Group co-chair format is a popular sport in both Armenia and Azerbaijan. It could probably benefit from a re-design, but this is almost certainly the wrong priority. The main problem with the peace process is not form, but content. If there was sufficient political will and energy from the conflict parties, then any format would be capable of yielding positive results. As it is, the current format has certain advantages. It deploys experienced diplomats from three powerful countries, all of them permanent members of the UN Security Council, all of them capable of helping underwrite a successful peace settlement on the ground. It keeps Russia, which as the former colonial power has many continuing interests in the region, on the inside of the process, not outside it.

The negative sides of the current format are mainly technical and operational ones. The current process is not conducive to nimble diplomacy. It is a cumbersome practice to coordinate meetings between three mediators and representatives of two conflict parties. That is why progress was possible when one country took the lead, as happened with Russia's Vladimir Kazimirov negotiating the 1994 ceasefire, French president Jacques Chirac convening meetings between the two presidents in 2000 and Russian president Dmitry Medvedev personally bringing the two leaders together in 2010-11.

There has been no major initiative since the failure in Kazan in 2011. In 2014 President Putin brought together the two leaders in Sochi, but although they agreed to ease tensions on the ceasefire line, there was conspicuously no public joint statement after the meeting. US Secretary of States again brought the two presidents together at the NATO summit in Wales in September 2014 and President Francois Hollande invited them to Paris in October, 2014. But the impression is one of process without result – a position that the negotiators prefer to having no process at all.

There is a problem also in the fact that the negotiations are run by the Organization for Security and Cooperation in Europe. The advantage of the OSCE is that it is an inclusive organization with a broad mandate that includes Russia. However, it is poorly resourced and has no very limited opera-

tional capacity. A High-Level Planning Group in Vienna was established at the Budapest summit of 1994 to plan for the OSCE's first-ever peace-keeping operation for Nagorny Karabakh, but few expect the organization actually to be able to lead operations on the ground when and if a peace deal is ever signed. Likewise there is a widespread assumption that, as in the Balkans, the EU will play the leading role in the post-conflict settlement on the ground. But the EU has up until now been a marginal player in the Karabakh peace process and its expertise has not been exploited. More broadly, the closed nature of the peace process has meant that the OSCE has not sufficiently coordinated its work on the Karabakh conflict with many other actors with expertise and resources to offer.

Some Reasons still to Hope

The negative dynamics of the Nagorny Karabakh conflict make for a dark picture. In 2014, 23 years after the end of the Soviet Union and 24 years after the beginning of the modern phase of the conflict, societies are still unprepared for the idea of compromise with the other and belligerent tendencies are still strong. At the same time, there is a more coordinated international push for peace, led by Russian president Dmitry Medvedev, and it is harder for the leaders of Armenia and Azerbaijan to hide in a process that has not delivered results.

It would also be a mistake to miss the points of light which may help the peace process if it does eventually make progress. Behind the aggressive rhetoric, there are alternative narratives that tell a different story and which can help bridge the gap between the two sides if the peace process begins to work. Armenians and Azerbaijanis have fought on several occasions over the past two centuries. Just as importantly, they have also cooperated, fought on the same side under Russian command, traded and inter-married. On the territory of Georgia, outside the political context of the Karabakh conflict, there are Armenian-Azerbaijani mixed marriages and mixed villages.

Obviously, the longer things remain broken, the more people grow apart. A new post-Soviet generation is growing up which does not know members of the ethnic group from Soviet times, often does not have a shared language (Russian) and only hears about Armenians or Azerbaijanis as the enemy. The modern ties that bind these young people in a globalized world – for example the fact that they are members of a “Facebook generation” – are weaker than the ties that bound their parents together. However, there is a foundation that can be built on, which is stronger than the relationships between, for example, Israelis and Palestinians.

In a paradoxical way the darker aspects of this conflict can also serve to help the peace process. By this I mean that the Karabakh dispute is a combus-

tible conflict in a strategically sensitive neighbourhood. A potential outbreak of fighting in the future would set alight a region containing Iran, Russia, Turkey, Georgia and international oil and gas pipelines. This is not a cheerful prospect for the international community, which cannot simply ignore the issue. In this sense Karabakh is “luckier” than the disputes over Cyprus or Transnistria which are easier to resolve but also command less urgent attention internationally.

As in every conflict, there are strong forces which resist resolution and prefer an entrenched *status quo*. For progress eventually to be made over Karabakh, there is a need for a “perfect storm” of domestic and international interests to come into alignment: both a coordinated push by international actors who make resolution of the conflict a priority, despite their manifold other interests in this region; and a domestic leadership on each side which decides that it must seek change because of its long-term interests or calculates that it has must yield to international pressure to do so.

Comments

Irada Baghirova

T. de Waal tried to present an objective picture of the Nagorny Karabakh conflict. Reviewing his generally positive attempt to identify its causes and possible ways for its peaceful resolution, I would like to advance some remarks.

T. de Waal argues that geography is at the heart of the conflict. However the root cause of the conflict is not in the geographic location of Nagorny Karabakh. Until 1918 this territory was not delimited by ethnicity and the name Nagorny Karabakh had purely geographical significance. The Autonomous Region of Nagorny Karabakh (not identical with entire Nagorny Karabakh) is geographically located on the territory of Azerbaijan and does not border with Armenia. The argument that Nagorny Karabakh had a long Armenian history does not hold. Numerous historical sources show a mass Armenian migration into Karabakh only following the Russian-Iranian wars in 1826-1828. Prior to this influx the Azerbaijanis had lived not only in Shusha but also in all other parts of Karabakh. Almost all place-names in Nagorny Karabakh before the collapse of the Russian Empire and even until the late twentieth century were of Turkic origin and the region has had a strong Azeri heritage.

The Caucasian Bureau of the Russian Communist Party (Bolsheviks) at its meeting on July 5, 1921 in Georgia decided on a compromise solution which satisfied neither side. A new autonomous region of Nagorny Karabakh containing an overwhelming Armenian majority was thus to be created inside the territory of new Soviet Azerbaijan. However the decision by the Caucasian Bureau did not stipulate that the autonomy be applied to the Armenian population of Nagorny Karabakh only. Consequently the town of Shusha, entirely inhabited by the Azerbis, was made the administrative center of the region. An ethnic character of the future autonomy was specified only in 1923 in a decree by the Azerbaijani Central Executive Committee (ACEC). The decree stated that autonomy was to be applied to the Armenian part of Nagorny Karabakh only and not to entire Nagorny Karabakh. Accordingly the original name of this autonomy used until 1936 was the Autonomous Region of Nagorny Karabakh (in Russian *Avtonomnaya Oblast Nagornygo Karabakha*). By the same decree the capital of the autonomous region was moved from Shusha to Khankendi, apparently due to a different version of autonomy. The borders of the region were fixed only in 1924. The Armenian population of Nagorny Karabakh had been namely so interspersed with Azeri villages that it was very difficult to delineate clearly the demarcation of the future Arme-

nian autonomous region. It's no accident that included into in ARNK there were not only villages with the predominantly Armenian population but also some with the Azeri population. The delineation resulted in the 94 percent share of the Armenians in the region's population.

Thomas de Waal claims that Nagorny Karabakh was one of only two instances in the Soviet system, in which a region with strong ethnic ties to another Soviet republic (Armenia) was located within the boundaries of a union republic with a different titular nation (Azerbaijan). As the second example he cites the transfer of Crimea from Russia to Ukraine in 1954. However the Crimean indigenous population was neither Russian nor Ukrainian but Crimean Tatar (deported from their native land in May 1944). I think that it's inappropriate to put the transfer of Crimea in the same category as Nagorny Karabakh.

T. de Waal cites Armenian complaints of being presumably treated as second-class citizens in Azerbaijan and "azerbaijanization" imposed by the Baku authorities on the predominantly Armenian region. Unfortunately, this is an often repeated argument used by the Armenian propaganda. In fact it was not a deliberate policy by the Azeri authorities and the claim itself is not a sufficient ground for a change of the status of Nagorny Karabakh. The demographic balance in the region has indeed shifted and but for that there were objective reasons. During the Second World War the Armenians of Nagorny Karabakh, mobilized in the Soviet Army, suffered heavily and lost about 45,000 mostly men. The Azeri population also greatly suffered but a traditionally higher rate of population growth among the Azeris in comparison with the Armenians, different migration patterns of the Armenians and the Azeris, the enhanced status of the Azerbaijani language in the republic and especially economic development contributed to a slight increase in the percentage of the Azeris in the Nagorny Karabakh population.

For Azeri historians Karabakh's past does not begin in the XVIII century and is not limited to the period of the Karabakh Khanat with its capital in Shusha. After the collapse of the Arab Caliphate, since the middle of the IX century Karabakh was a part of many states which existed on the territory of today's Azerbaijan. The names of these states were generally derived from the names of ruling Muslim dynasties (Sajid, Salari, Atabek-Eldenid, Elkhaid, Jhelairid, Garagoyunlu, Akgoyunly, Safavi, Afshar and finally Karabakh).

The author notes that the possession of territory led many Armenians down a slippery slope from the demand for self-determination to irredentism and the violent seizure of border areas containing a compact ethnic minority of the titular nation. At the beginning of the Nagorny Karabakh conflict in 1988 the Armenian version of irredentism was called "miatsum" (reunion), interpreted as the right to self-determination. The Armenians of Nagorny Karabakh demanded independence and declared the "Nagorny Karabakh Re-

public". This entity remains internationally unrecognized, even by Armenia. However one and the same people cannot claim self-determination more than one time and secede from the country in which they have lived for decades.

Thomas de Waal states that in 1994 the Armenian side won a military victory on the ground having gained control of not only almost entire disputed territory of Nagorny Karabakh itself, but wholly or partly also of seven Azeri districts around it. It should be noted that Nagorny Karabakh, and more specifically the Nagorny Karabakh Autonomous Region has not been a disputed territory from the Azerbaijani side as it was previously situated within the borders of the Soviet Socialist Republic of Azerbaijan. The author writes that the dispute continues, as Azerbaijan does not give up its claim to the land which is recognized internationally as a *de jure* part of its territory, and uses all the levers to change the *status quo*. This is an inaccurate statement because, unlike Armenia Azerbaijan can not have a claim to a part of its own territory. The change of the *status quo* means for Azerbaijan an end of military occupation of a part of its territory by Armenia.

Concerning the format of negotiations, the author notes that Armenia has been trying to maximize the legitimacy of the Karabakh Armenians calling them the "third side" in the conflict and minimizing the role of the Azeri community of Nagorny Karabakh. On the other hand Baku does not officially accept the proposed trilateral format. In principle, the existing format can be considered in a way as a *de facto* trilateral, because since 1998 three leaders of Nagorny Karabakh in turn succeeded each other as presidents of Armenia. One of them – Robert Kocharyan also did not insist on the trilateral format in 1998 having stated that he represented both Armenia and Nagorny Karabakh.

Thomas de Waal notes that during the Presidency of Dmitry Medvedev in the Russian Federation there had been some progress in the negotiation process on Nagorny Karabakh, while Vladimir Putin presumably focused more on the "management" of the conflict than on finding its solution. Mentioning the failure of the talks in Kazan in 2011 the author fails to mention that it was the Armenian side who opposed the Madrid principles:

- the return of the territories surrounding Nagorny Karabakh to Azerbaijani control,
- an interim status for Nagorny Karabakh with a provision for guarantees of security and self-governance,
- a corridor linking Armenia to Nagorny Karabakh,
- future determination of the final legal status of Nagorny Karabakh through a legally binding agreement,
- the right of all internally displaced persons and refugees to return to their former places of residence,
- international security guarantees that would include a peacekeeping operation.

The Armenian side offered its own version of the so-called updated Madrid principles which has not been however accepted by Azerbaijan. I think that Medvedev's policy on Nagorny Karabakh in spite of seeming proactivity, was no different from Putin's approach.

The author notes the lack of coordination of the OSCE's work on the Karabakh conflict with many other actors who offered their expertise and resources, which led to the closed nature of the peace process, but the he does not mention these actors and does not offer an alternative to the OSCE, which would make it a more concrete proposals.

The author comes to the conclusion that the current situation requires great efforts from both parties in the conflict and from the great powers who act as mediators in order to put an end this oldest conflict in the post-Soviet space. His main proposal is a "perfect storm". By this he means a coordinated push by international mediators who would make conflict resolution as their priority and by state leaderships on both sides who would yield to international pressure. This action would combine domestic and international interests and can be called perfect. Unfortunately the current situation does not allow for its realization in practice.

In conclusion, and on an optimistic note I hope that all efforts by the negotiating parties, international mediators and representatives of civil society were not in vain, as was king Sisyphus' toiling.

Recent international developments have impacted also on South Caucasus. Russia's annexation of Crimea in March 2014, as well as hostilities in South-East Ukraine have clearly demonstrated that the Kremlin perceives the post-Soviet space, except the Baltic states, as its sphere of influence. Azerbaijan has from the very outset taken an unambiguous stand on the illegality of Crimea's annexation and voted for the UN GA Resolution on the territorial integrity of Ukraine. Despite the latest rapprochement between Azerbaijan and Russia on some issues official Baku adamantly insists on the primacy of territorial integrity of states over the right to self-determination.

Apparently convinced that the Ukrainian crisis is likely to impact on the Nagorny Karabakh issue, the American co-chairman of the OSCE Minsk Group James Warlick made a statement on May 7, 2014 on six basic principles of resolution. Although his formulation did not radically differ from the updated Madrid principles, there was something new in the statement which prompted the Armenian side to respond negatively. It strongly objected to the omission of a "referendum" in resolving the future status of Nagorny Karabakh and to the characterization of the Azerbaijani territory to be returned as an "occupied" land. Azerbaijan's reaction to these proposals, on the other hand, was positive, E. Mamedyarov, Azerbaijani Foreign Minister, emphasized that the proposal offered a new opportunity to resume negotiations. Azerbaijani political experts believe that under current circumstances Warlick's proposals are the lesser of the two evils.

An aggravation on the Karabakh front in early August 2014 for the first time since 1994 threatened with a relapse to outright warfare. On August 10, 2014 a meeting was held in Sochi on Vladimir Putin's initiative with the participation of three Presidents. Its very important result was a cease-fire. In so doing, Vladimir Putin once again reminded the parties to the conflict, as well as all mediators of Russia's indispensable role in managing the conflict. As the Karabakh conflict has long reflected a wider geopolitical confrontation, the Western co-chairmen responded by arranging a meeting on September 4, 2014 in Wales of the Presidents of Azerbaijan and Armenia I. Aliyev and S. Sargsyan with US Secretary of State J. Kerry. Next came a Paris meeting at which French President Francois Holland proposed to start drafting a comprehensive peace treaty. The next meeting of the two Presidents is scheduled for September 2015 at the UN General Assembly in New York. Before it happens, the low-intensity process is likely to stagnate. Some observers speculate that the weakening of Russia's position on the world scene, could expedite this process. In this case Thomas de Waal's dream of a "perfect storm" might become a reality.

Comments

Aram Simonyan, Menua Soghomonyan and Alik Gharibyan

The author relatively well presented the topic and at the end constructive important suggestions for preserving peace in the area.

However he is mistaken stating that the “Armenians and Azerbaijanis have fought on several occasions over the past two centuries”. In fact Azerbaijan as country and the ethnic group of Azeris have appeared only in the XXth century. Actually Azerbaijan was for the first time formed in 1918. As the present capital Baku was then an international city the Musavat party proclaimed Azerbaijan’s independence in Gandzhak, named Gyanja by the Azeris. Numerous tombs and memorials testify to the millennial Armenian history in Karabakh, called Artsakh in Armenian language. The Karabakh problem arose only after the independent states of Armenia, Azerbaijan and Georgia were formed following the collapse of the Russian Empire. On November 30, 1920 after the establishment of Soviet rule in Armenia. Nagorny Karabakh, Zangezur and Nakhichevan were recognized by the president of the Azerbaijan Revolutionary Committee Nariman Narimanov and by its commissar for foreign affairs M. Huseinov as inseparable parts of the Soviet Republic of Armenia. On July 4, 1921 by the decision of the Caucasian Bureau of the Russian Bolshevik Party Nagorny Karabakh should have been united with Armenia. Instead following an intervention by Joseph Stalin, it was forcefully annexed by Azerbaijan on July 5, 1921. The Karabakh Armenians protested then against this illegal action.

The author also stated that “a region with a large Armenian population and a long Armenian history lies geographically within the territory of Azerbaijan and also contains a city, Shusha, with a strong Azerbaijani heritage.” In fact Shushi was founded by the Armenians and it has had a strong Armenian heritage. The Armenian population of Shushi was massacred on March 22, 1920 by the troops of Khosrov Bek Sultanov, appointed by Azerbaijan as a governor. More than 8.000 Armenians were then killed. and 15.000 fled from Shushi to various parts of Karabakh.

The term Nagorny Karabakh refers only to the Nagorny Karabakh Autonomous Oblast. On July 7, 1923, two years after the notorious decision to include Nagorny Karabakh into Azerbaijan SSR with a high level of autonomy, the Azerbaijani authorities, only with great reluctance determined its borders. They excluded from Nagorny Karabakh Lachin, Karvachar, Koubatlou, Jabrail, Shahumyan, Khanlar and the northern part of Karabagh. During the Soviet rule the Azeri rulers tried to destroy the Armenian culture and historic heritage in Shushi. The hate policy of Azerbaijani authorities towards the

Armenians has resulted in the migration of Karabakh Armenians. The resettlement of Azeris in Karabakh has been carried out artificially and by the dominating elite of the Soviet Azerbaijan in order to alter the ethnic composition of entire Karabakh. Constituting 94 percent of Nagorny Karabakh's population the Armenians could not have a future in Azerbaijan. It is not accidental that on November 23, 1977 the Council of Ministers of the Soviet Union recognized that Nagorny Karabakh had been artificially annexed to Azerbaijan without giving due attention to the historic record, to the desire of the population and to economic considerations.¹

In 1991 Azerbaijan declared itself the successor of Musavatist Azerbaijan (1918-1920), a republic that had never been *de jure* internationally recognized and whose state borders had never been legally established. The "restoration" of Azerbaijan's independence was proclaimed on August 30, 1991. Three days later, on September 2, 1991 the Nagorny Karabakh Assembly responded by declaring the autonomous republic's independence according to the USSR Law of April 3, 1990. This law stipulated that upon the secession of a Soviet Republic from the Soviet Union autonomies or compactly settled ethnic groups can freely choose their political status. Premeditated massacres and plundering of Armenians in Sumgait and Baku took place in February 1988 and in January 1990. Especially in Sumgayit the lists of the Armenian dwellers were compiled in advance, the Azeri criminals were released from prisons and given weapons, tools and for three days electricity in Armenian quarters had been turned off. Almost all Armenians of Sumgait had been persecuted and plundered. The same occurred also in Baku. In 1991 Azerbaijan unleashed armed attacks also on Armenia using ammunition and arms left from the Soviet Union. Stepanakert, the center of Karabakh, was continuously bombarded from Shushi in late summer 1991. Many Armenians fled and their massive emigration from Azerbaijan started. The Armenian armed forces, on the other hand, really liberated only some parts of Nagorny Karabakh, while its considerable part still remains under Azerbaijani occupation (Shahumyan, Khanlar, Northern Karabakh). It should be noted that the Khojali massacre of Azeris during the early stage of the conflict in February 1992 was not planned by the Armenians. The Azeri forces intentionally blocked then the retreat of peaceful Armenian population. The result was not a premeditated massacre. There were war victims on both sides and the number of Azeri victims did not exceed 1500.

The Karabakh conflict has become an object of political manipulation both in Armenia and in Azerbaijan. But while on the Armenian side it is a problem of national identity and of securing the physical existence for the Karabakh Armenians, in Azerbaijan it is just a problem of maintaining the Aliiev regime in power. Baku's resolute position of not recognizing the Karabakh Armeni-

1 Protocol of the USSR Council of Ministers, November 23, 1977.

ans (who claimed their right of self-determination) as a negotiating side makes the solution of the conflict very difficult. Any kind of a democratic referendum would truly express the will of Nagorny Karabakh's population. Ceding some Armenian-controlled areas near Nagorny-Karabagh to Azerbaijan would not guarantee peace. The author states erroneously that "the main problem with the peace process is not the form, but content. If there was sufficient political will and energy from the conflict parties, then any format would be capable of yielding positive results". The fact is however that both the Russian Federation and Armenia oppose the resolution of the Nagorny Karabakh problem by military means. On the other hand, President Ilham Aliyev of Azerbaijan apparently envisions and prepares for a military showdown. By the way, Azerbaijani snipers regularly violate the ceasefire along the border.

The author's several formulations do not correspond to the reality. One of them is the author's statement: "for Azerbaijanis the conflict is an irredentist land grab by the Republic of Armenia with the Karabagh Armenians playing a mere supporting role" which contains elements of truth. The Nagorny Karabagh problem has not been nevertheless just a struggle for land but also for survival and freedom. The war took lives from almost every Armenian family in Nagorny Karabagh. Secondly, the Karabagh Armenians are key actors in the conflict. They demanded self-determination not because of a different history and outlook from those of the Armenians in the Republic of Armenia, as de Waal contends. His arguments about the separateness of the Karabagh Armenian dialect and about the cultural differences between the Nagorny Karabagh Armenians and those in the Republic of Armenia do not stand. Firstly, Armenian is the official language in both republics. Secondly, the Armenians in the Republic of Armenia itself speak a dozen dialects which does not make the Armenians living in various regions of the country different peoples. Thirdly, the author's statement "the campaign of the grandchildren of Anatolian Armenians to have the killings of 1915 called a genocide" raises a suspicion of his questioning the very historical fact of the genocide. The grandchildren of Western Armenians, as well as the Armenians around the world demand the recognition and condemnation of the genocide of Armenians in 1915.

The future status of Karabakh, the problem of refugees and other questions need to be solved before and not after arriving at a general compromise. And finally the author correctly underlined the positive role and the influence of several states, of OSCE, and particularly of the Russian Federation in the process of managing the conflict.

Recommendations¹

International Crisis Group

In order to reduce the dangers of a new war and improve the environment for conflict resolution we recommend that:

- Armenia and Azerbaijan should formally endorse the basic principles, promote more pragmatic public discussion on the value of such an agreement, reduce belligerent rhetoric and not demand at this stage that a fixed timeframe be set or a specific outcome be pre-ordained or excluded in a referendum to determine Nagorny Karabakh's final status.
- The parties should undertake confidence-building measures along the front lines, including withdrawal of snipers from the line of contact (in accordance with OSCE recommendations), suspension of large-scale military exercises near the line of contact, the pullback and cessation of use of any artillery and a halt to trench advancements towards each other's positions. Armenia should stop sending regular army conscripts to serve in Nagorny Karabakh.
- Armenia and the *de facto* Nagorny Karabakh authorities should cease supporting activities that make the *status quo* more intolerable for Azerbaijan and thus use of force seem a more attractive option for its leaders and public, such as settling Armenians in occupied Azerbaijani territories, renaming previously Azerbaijani majority towns and undertaking unilateral archaeological excavations.
- Both Armenia and Azerbaijan should accede to the Rome Statute of the International Criminal Court.
- The international community should step up its efforts to discourage the dangerous arms race in the region. In particular Russia, as an OSCE Minsk Group co-chair, but also others, should uphold the non-binding UN and OSCE arms embargoes on Armenia and Azerbaijan.
- OSCE, with full support of the Minsk co-chair countries, should encourage the parties to broaden its observer mission's mandate to authorise investigation of claimed violations and spontaneous monitoring, including with remote surveillance capabilities, and to agree to

1 International Crisis Group. *Armenia and Azerbaijan: Preventing War, Europe briefing no. 60*, <http://www.crisisgroup.org/en/regions/europe/south-caucasus/azerbaijan/B60-armenia-and-azerbaijan-preventing-war.aspx> (25-7-12).

a significant increase in the number of monitors, as an interim measure until a peacekeeping force is deployed as part of the implementation of a peace agreement.

Serbia vs. Kosovo

The Serbia-Kosovo conflict

Anton Bebler

The present relation between Serbia and Kosovo reflects a relatively long standing conflict between the Serbs and a part of the Albanian nation which is not however from a time immemorial. In the famous battle at Kosovo Polje (1389), which proved to be fateful for the medieval Serbian state, the Albanian tribesmen fought against the Ottomans on the side of the Serbian king Lazar. The competition for land, conflictual attitudes and interests between the Serbs and the Albanians have developed steadily on the territory of Kosovo over four and a half centuries of the Ottoman rule. The islamization of the majority of Albanians had deepened the existing cultural divide, adding the religions divide to the language divide between the Serbs and Kosovar Albanians. The latter as Moslems enjoyed privileges and favors from the Ottoman rulers while the former had not. The Ottomans had on many occasions used the Kosovar Albanians as allies in suppressing Serbian revolts and uprisings. All these circumstances increased the conflict component in the mixture of relations between the two ethnic communities which had for several centuries included also peaceful coexistence and cooperation at the local level.

The elements of conflict had gained the momentum with the growth of Serbian and Albanian nationalism in the second half of the XIXth century and with the waning of the Ottoman imperial rule in the Balkans. At the turn of the XXth century the destiny of Kosovo constituted only a small part of the Oriental question and a subchapter in the Albanian national question. Several decades earlier Kosovo found itself at the intersection of competing interests of great European powers and of four conflicting regional national projects. Each of them had implied overlapping and conflicting territorial aspirations. The Serbian national project has included since, at least, 1844 the inclusion of entire Kosovo into the Serbian state. The Montenegrin project had been directed, i. a., towards acquiring Western Kosovo (Metohija), while the Bulgarian project aimed i. a. at a part of Eastern Kosovo. The all-Albanian national project was adopted by the League of Prizren in Kosovo, in November 1878. It obviously included also Kosovo as part of a desired autonomous Albanian entity within the Ottoman Empire.

Kosovo as Serbia's war booty and nagging problem

As a sharp clash between the Serbian state and the community of Kosovar Albanians the conflict has exploded about a century ago during the First Balkan War (1912-1913). The governments' of the Kingdoms of Montenegro and of Serbia¹ had then as their key geostrategic ambitions territorial expansion into Ottoman possessions and an unimpeded permanent territorial access to the Mediterranean Sea. The annexation of what is now the Northern part of the Republic Albania and of its sea port Durrës (Serb. Drač)² would have made Serbia a maritime nation. The conquest of Shkoder (Serb. Skadar) and of the fertile land in the estuary of the Bojana River would have very considerably expanded the territory of Montenegro and made it economically more viable.

At the time of the Austro-Hungarian annexation of Bosnia and Herzegovina in 1908 Serbia tried to entice the Russian Empire to join in undertaking a military counteraction. Following Russia's refusal the Serbian government waited for another chance to gain territory at the expense of the Ottoman possessions in the Balkans, including those with Serbian minorities only or even without Serbian population. Altogether the much smaller Kingdom of Montenegro followed the same expansionist line. The Russian Empire³ in its competition with the Austro-Hungarian Empire for influence in the Balkans had actively encouraged and supported the territorial ambitions of Serbia, Montenegro and other predominantly Christian Orthodox states. The Russian diplomacy initiated secret meetings of these states' representatives from which an interstate conspiracy developed. Aware of and hostile to the Albanians' strivings for national self-assertion and emancipation the governments of Serbia, Greece and Montenegro secretly plotted to occupy and partition the Ottoman possessions with a predominantly or entirely Albanian and Muslim population. The conspirators' clear intention was to preempt the birth of an independent Albanian state on the ruins of the "Sublime Porte".

In October 1912, according to synchronized war plans the Montenegrin army first and soon after wards the Serbian army invaded and quickly conquered territories in what is today Northern Albania. By the end of October 1912 the Montenegrin army "liberated" Western Kosovo (Metohija) and on November 4 entered Djakovica, simultaneously with the Serbian army. The Serbian conquest of Kosovo was then only a secondary objective while the 'liberation' of its Serbian minority of the "Ottoman bondage" and of Koso-

1 Tucović, D. *Serbia and Albania* (in Serbian) (1945). Kultura, Belgrade-Zagreb, pp. 7, 13-14.

2 Tucović, D. *Serbia and Albania* (in Serbian) (1945). Kultura, Belgrade-Zagreb, pp. 94-110.

3 Anufrieva I.V. et. al. *The Albanian factor in the crisis development on the territory of former Yugoslavia* (in Russian) (2006). Documents Vol. 1 (1878-1997). INDRIK, Moscow, pp. 57, 59-60.

vo's medieval Christian monuments served as a convenient propaganda cover for its own and international public.⁴

The Serbian government claimed that its right to occupy Kosovo was justified (1) by the Serbs' superior level of civilization compared with that of the Albanians', (2) by the Serbian state's historic possession of the province in the XIIIth-XVth centuries and (3) by the numerical majority enjoyed then by the Serbs' Slavic ancestors. By modern standards however all three arguments have long since become unacceptable as justification for aggressive behavior against a neighboring state. Serbia then grossly violated the principle of territorial integrity of a neighboring state when its armed forces attacked and occupied Kosovo. The Sublime Porte and its legal successor the Republic of Turkey never recognized the cession of Kosovo and no corresponding international treaty was concluded. Thus Serbia's occupation of Kosovo was illegal and also illegitimate since Serbia carried it out against the will of its majority Albanian population. The Serbian military conquest was accompanied by grave violations of international humanitarian law and caused about 25,000 deaths among Albanian Kosovars and Turks. The atrocities against Kosovo's civilian population were vividly described by Leon Trotsky (then a Russian correspondent in the Balkans) and were thoroughly documented by an international commission of enquiry.⁵

The attainment of the ultimate Serbian and Montenegrin strategic objectives was however foiled then by Austro-Hungary (and Italy) who resisted Russia's and its proxies' penetration into the Adriatic. The Russian imperial command felt that Russia was still insufficiently prepared for a major war. The Serbian government consequently bowed to an Austro-Hungarian war ultimatum. The Serbian Army was ordered to withdraw from Northern Albania. Montenegro persisted longer but by May 1913 its troops were also forced to leave Shkoder. However the European powers (Great Britain, Austro-Hungary, Germany, France and Italy) at a conference in London, at Russia's insistence, agreed to accord Serbia and Montenegro the occupied Kosovo, Sandzak and Vardar Macedonia as war booties. In 1912-1913 Kosovo was not even properly legally annexed to Serbia, according to the valid Serbian constitution of 1903 and later to the Kingdom of Serbs, Croats and Slovenes according to its 'Vidovdan' constitution.

The European powers thus knowingly allowed Serbia to keep Kosovo occupied against the wishes of its majority population. The host of the London conference, British Foreign Secretary Sir Edward Grey frankly admitted this fact during a debate in the House of Commons. Like later Cyprus and a number of Arab lands Kosovo was then forcefully amputated from the Ottoman Empire and immediately subjected to another foreign rule. The Ottoman pos-

4 Tucović, D. *Serbia and Albania* (in Serbian) (1945). Kultura, Belgrade-Zagreb, p. 119.

5 Carnegie Endowment for International Peace. *Report of the International Commission to Inquire into the Causes and Conduct of the Balkan Wars* (1914). Washington.

sessions in the Near East and North Africa were subjugated by France, Great Britain and Italy,⁶ while Kosovo became *de facto* annexed by small Montenegro and Serbia. The Kingdom of Serbia, which only several decades earlier became liberated of the Ottoman rule, was thus allowed by the European great powers to create its own mini colonial empire in the Balkans. In November 1918 Montenegro lost its sovereignty, ruling royal dynasty, and its very name. Together with Western Kosovo (Metohija) it became absorbed by the Kingdom of Serbia before being included by fiat into the "Kingdom of the Serbs, Croats and Slovenians".

The two brutal Serbian conquests of Kosovo in 1912 and again in 1918 left a bitter imprint on the collective memory of the Kosovar Albanians. The subsequent harsh Serbian rule under the Karadjordjevic dynasty was also so painful that in April 1941 the Kosovar Albanians massively greeted the invading Italian and German troops as liberators. During the Second World War the largest part of Kosovo was occupied by Italy and incorporated into the satellite 'Kingdom of Albania' with the Italian king as head of state. The rest of Kosovo was then divided between the "Third Reich" and Bulgaria, the latter having annexed its occupation zone in Eastern Kosovo. The Italian, German and Bulgarian policies of occupation crisscrossed and partly overlapped in Kosovo. On the other hand, the Yugoslav and Albanian resistance and liberation movements, dominated by the Communists, made their tangible inroads into Kosovo only from 1943 on. Prior to the Italian capitulation in September 1943 only very few Kosovar Albanians joined the Communist-led resistance. The Kosovo National Liberation Council which met at its first session in January 1944 adopted a motion according to which Kosovo after the war would be reunited with Albania.

The third conquest ('liberation') of Kosovo by Serbian units of the Yugoslav Army in autumn 1944 was again accompanied by armed violence against the Kosovar Albanians. The act of absorption of Kosovo into Yugoslavia was passed in April 1945 under the conditions of martial law, by an appointed 'Kosmet Regional People's Assembly'. The composition of the Assembly was utterly unrepresentative consisting of 142 appointed members, among them with only 33 Kosovar Albanians. All appointed deputies were Communists and mostly Serbs. The latter represented then only about 20% of Kosovo's population. The annexation was adopted by acclamation, without a vote and without a single speech, let alone a debate. There was no preceding election or a referendum in Kosovo.⁷ This Stalinist parody of legality thus totally lacked democratic legitimacy.

Talks related to the future post-war status of Kosovo have taken place since 1944 between the leaderships of the Yugoslav and Albanian communist parties. After the war Soviet, Bulgarian, Yugoslav and Albanian communist

6 Sur, S. *Relations Internationales* (2000). Montchrestien, Paris, pp. 71-76.

7 Malcolm, N. *Kosovo: A Short History* (1998). Macmillan, London, pp. 315-316.

leaders discussed, on a number of occasions and behind closed doors, a project of a Balkan Federation. In 1947-48 this project became one of the controversies which contributed to the Soviet-Yugoslav quarrel and was subsequently abandoned.

Kosovo as Yugoslavia's thorny problem

Between 1918 and 1999 Kosovo remained part of three multinational Yugoslavias, for most of the time as a non-self-governing province subordinate to the Serbian officialdom in Belgrade. The overt political discrimination of non-Slavic national groups was built into the very foundation of the first Yugoslavia since its inception in 1918, named symbolically the "Kingdom of the Serbs, Croats and Slovenians" only. Between 1919 and 1941 the treatment of the Yugoslav Albanians, in majority Moslems, had been much worse than that of the German, Hungarian and other Christian minorities. In the communist-ruled second Yugoslavia (FPRY, SFRY) the Kosovar Albanians' position had improved considerably compared with that in the the-war monarchy. However contrary to the Yugoslav communists' belief and their public pronouncements the "socialist revolution" did not resolve numerous national questions in that multinational state, including the Kosovar Albanian one. The Kosovar Albanians' situation had been adversely affected by the Tito-Stalin conflict and by Albania's participation in hostile actions against Yugoslavia, including border incidents. These actions had given a pretext for harsh repression in Kosovo which was relaxed after the dismissal of Aleksandar Rankovic in 1966.

The Kosovo problem in all three Yugoslavias had contained at its kernel a political conflict between the Kosovar Albanians' desire for national emancipation and self-determination⁸ and, on the other hand, the Serbian elites' strenuous endeavors to rule Kosovo. As a result of general liberalization of Yugoslavia's political system Kosovo had gained in 1963 a higher measure of internal autonomy and the enhanced legal status of an Autonomous Province.

Furthermore with the adoption in 1974 of the last SFRY constitution Kosovo became an almost full-fledged member of the federation. The Autonomous Province of Kosovo had been, according to the last SFRY constitution of 1974 an integral part of the Yugoslav federation. It was represented in its collective Presidency and in other federal institutions on an equal footing and in many respects enjoyed equal rights with the six republics, including Serbia. By then the Kosovar Albanians became the third largest nation in Yugo-

8 Rrecaj, Besfort. *Kosovo's right to self-determination and statehood* (2006). Besfort Rrecaj, Pristina, pp. 41-50.

slavia (after the Serbs and Croats). This demographic change and the liberal evolution in Yugoslav politics made politically untenable the Kosovar Albanians' obvious inequality in rights with an even several times smaller Slavic nation – the neighboring Montenegrins. However the Kosovar Albanians' desire for full equality in collective rights with Yugoslavia's Slavic nations, if granted and implemented, would have put into question Yugoslavia's very name ("The Land of the Southern Slavs"), its anthem ("Hey, Slavs"), the privileged legal status of the Slavs, the existing power relations and the Belgrade bureaucracy's pivotal position in the federal state etc.

As a constant source of political and security troubles Kosovo tangibly contributed in 1941, 1991 and 2003 to ruining all three Yugoslavias - the Kingdom of Yugoslavia (KY), the Socialist Federal Republic of Yugoslavia (SFRY) and the Federal Republic of Yugoslavia (FRY). The dismantling of SFRJ started when on March 28, 1989 the Serbian People's Assembly effectively abolished Kosovo's autonomy. By adopting constitutional amendments the Serbian parliament subjected the province to direct rule from Belgrade. The Provincial Assembly of Kosovo was disbanded by the Serbian Assembly on July 5, 1990. This action was accompanied by brutal police intimidation and numerous arrests of Kosovar Albanian deputies in the Provincial Assembly, buttressed visibly by the presence of JNA tanks in the streets of Pristina.⁹ Kosovo's subjugated majority population had been exposed to outright discrimination and harsh treatment by the Serbian police and Serbian courts. By its unilateral action and by severe anti-Albanian repression the Serbian government gravely undermined the Yugoslav constitutional order. It raised not entirely unfounded fears in Croatia and Slovenia that the Serbian leadership, aligned with the federal military, would attempt subsequently to undertake similar actions elsewhere in Yugoslavia. The repression in Kosovo consequently badly soared Serbia's relations with Croatia and Slovenia and deepened the boiling Yugoslav crisis.

The sinister events in Kosovo in 1988-89 had taken place in the already shaky federal state while outside Yugoslavia's borders a political upheaval swept Eastern Europe. The massive geopolitical change on the continent had accelerated the demise of the authoritarian communist regime in SFR Yugoslavia as well. The crisis in Kosovo was followed soon by armed violence in Croatia's Serbian Kraina instigated from Belgrade. By 1991-1992 the ultra-nationalist policy of the Milosevic regime, supported by the Serbian Orthodox Church and by majority public opinion among the Serbs, ruined the second Yugoslavia and the achievements of the Serbian national project since

9 JNA (Yugoslav People's Army)- the federal armed forces in the second Yugoslavia, which disintegrated in 1991-92. In 1992 JNA's remnants were legally reorganized into the Army of Yugoslavia (VJ) and the armies of the Serbian secessionist parastates in Bosnia and Hercegovina and Croatia. After the separation in 2006 the Army of Yugoslavia was divided into the armies of Serbia and Montenegro.

1918. In the following 17 years the Yugoslav federal state created by the Communists in 1945 disintegrated into seven separate states.

Kosovo as an issue of international politics since the 1990s

As long as the second Yugoslavia existed Kosovo had represented predominantly an internal problem in Yugoslavia. Only occasionally this issue was raised by neighboring Albania. The repression and blatant violations of human rights and fundamental freedoms in Kosovo had thus long gone on unopposed by the Council of Europe and other international organizations, largely because Kosovo was regarded as an internal affair of a sovereign state. The breakdown of SFRY, to which the conflict in and over Kosovo substantively contributed, had had however appreciable wider international reverberations and implications. It attracted exceptional international attention and raised serious worries among the Western powers about its domino effect on the ex-Soviet space. Due to this fear (which turned out to be highly exaggerated) the Yugoslav drama was catapulted to the top rank of acute international problems.

The Kosovo problem surfaced as a distinct and contentious international issue only when it became clear to the Western powers that the pacification of the ex-Yugoslav space would be incomplete without resolving it as well. In spring 1997 after the forceful imposition of peace on Bosnia and Herzegovina, the Kosovo problem was finally explicitly raised in several international *fora*, including UN and OSCE. However all attempts by the Western powers to reach a satisfactory peaceful solution through bilateral talks with the Federal Republic of Yugoslavia (FRY), diplomatic pressures and by clear military threats brought no desirable results. The final failure of these efforts at an international conference at Rambouillet, France was followed in March 1999 by the first armed attack by NATO against a UN member state. FRY filed then a complaint against the NATO members' 'illegal use of force'. The International Court of Justice rejected the motion and declined to examine the legality of NATO's 'humanitarian intervention'.¹⁰

Already prior to the NATO intervention the Milosevic regime decided to exploit a "historic" opportunity and to get rid for good of most Albanian and other Muslim population of Kosovo. The displacement of about 350,000 Kosovar Albanians, Turks and other non-Serbs was carried out by the Yugoslav Army and by the militarized Serbian police already in summer 1998. The beginning of NATO air attacks in March 1999 was followed by a still more massive wave of terror and of organized mass expulsion of Kosovar Albani-

10 International Court of Justice. Advisory Opinion on the Accordance with International Law of the Declaration of Independence in respect of Kosovo (The Hague, 22 July 2010).

ans and Turks to Macedonia and Albania.¹¹ The Serbian regime's attempted act of genocide provided legitimacy to NATO's 'humanitarian intervention',¹² as an expression of the "responsibility to protect"¹³ Kosovo's civilian population. A small group of NATO member states participated in the operation directly while a half dozen other members indirectly. Like earlier in Bosnia & Herzegovina the Kosovo problem would not have been even half-resolved without a determined military action by USA and NATO.

The Operation Allied Force raised Kosovo to the rank of burning international problems. This intervention, undertaken without a UN Security Council's authorization, resulted in the second foreign occupation, after Bosnia & Herzegovina, of a part of ex-SFRY's territory. Under the terms of the Kumanovo protocol signed with NATO in June 1999 FRY/Serbia removed from Kosovo its army, police and civilian administration. Thus in summer 1999 FRY/Serbia lost three key elements of sovereignty in Kosovo: the control over its territory, its population and borders. The NATO peace-enforcing intervention physically detached Kosovo from Serbia and placed the province under temporary UN administration (UNMIK). After the retreat of the Yugoslav army, Serbian police and civilian administration from Kosovo, international organizations, notably the UN High Commissariat for Refugees and International Migration Organization, undertook a large scale operation of humanitarian assistance. During the second half of 1999 about 1,3 million refugees and displaced Albanian Kosovars and Turks returned to their homes in Kosovo. They found mostly ruined and burnt-out homesteads without roofs, vandalized and often mined houses, apartments, schools and other public buildings.

With the adoption of the seminal UN Security Council Resolution 1244 on June 10, 1999 Kosovo became an international protectorate with various security, surveillance, control, assistance and other roles played by several international organizations (UN, NATO, OSCE, EU, Council of Europe, World Bank etc.).¹⁴

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- 11 OSCE. *Kosovo/Kosova - As Seen, As Told, An analysis of the human rights findings of the OSCE Kosovo Verification Mission October 1998 to June 1999* (1999), <http://www.osce.org/odihr/17772?download=true>. Human Rights Watch. *Under Orders, War Crimes in Kosovo* (2001), New York. Independent international commission on Kosovo. *The Kosovo report, Conflict, international response, lessons learned* (2000), Oxford.
 - 12 Simonen, K. *Operation Allied Force: A Case of Humanitarian Intervention* (2000). NATO Defense College, Rome, pp. 115-128.
 - 13 "The responsibility to protect" in Baylis, J. (2008), pp. 535-539. Also Weiss, T. G. *Humanitarian Intervention: Ideas in Action* (2007). Polity Press. + Gareth Evans, Cambridge, UN Documents.
 - 14 Naegele, J. *International Peacekeeping in Kosovo: origins and lessons* (2010). In: *A decade of international peacekeeping and stabilization in Kosovo – Accomplishments, problems, prospects*. Premiere, Ljubljana.

Resolution 1244, *inter alia*, established the *UN Interim Administration Mission in Kosovo* (UNMIK) and the international military presence in the form of the NATO-led *Kosovo force* (KFOR). At its height in 2001 UNMIK was the largest civilian peacekeeping mission to date in the history of the United Nations. It consisted of over ten thousand international staff and local staffers. UNMIK was tasked with organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement and transferring its administrative responsibilities, as these institutions would be created. Initially UNMIK established the *Joint Interim Administrative Structure* (JIAS) consisting of Pristina-based administrative departments for services delivery and revenue collection as well as local administrations and councils at the municipal level. The Police service had been then a solely UNMIK responsibility. Since the high point the competencies of UNMIK were gradually reduced. The role and the size of the UNMIK Police has correspondingly steadily fallen from the initial high of about 4.700 to only six policemen in 2014. This reduction has been due to the development of Kosovo self-governing institutions and the presence and activities of other international organizations.

The NATO-led force KFOR at the time of its deployment in summer 1999 was composed of nearly 50.000 troops, provided by 19 NATO members and 19 non-NATO members. The territory of Kosovo was divided then into five zones of responsibility with lead-contingents provided by USA, UK, France, Italy and Turkey. The Russian Federation endeavoured to obtain its own zone of responsibility but was refused by the Western powers who feared a repetition of a Transnistria-like Serbian secession under Russian protection. Russian units were deployed in several KFOR zones, including the U.S.-led zone of responsibility on the southeastern periphery of Kosovo. One Russian company had participated in joint U.S./Russian vehicular patrols along the border with Macedonia. Russia withdrew its contingent from KFOR in June 2003, handing over the facilities it had occupied to the local Kosovo Serbs rather than to UNMIK which was the legal administrator. KFOR's original tasks were defined as (a) deterring renewed hostilities; (b) demilitarizing the Kosovo Liberation Army (KLA); (c) establishing a secure environment; (d) ensuring public safety and order; (e) supervising demining; (f) conducting border monitoring; (g) ensuring the protection and freedom of movement of all international organizations. Effectively KFOR has undertaken control of Kosovo's external borders, airspace, key communication channels as well as the protection of Serbian religious monuments and enclaves. Since then the numbers of soldiers and of contributory nations were steadily reduced. This process was temporarily interrupted in March 2004 as a reaction to an outburst of interethnic violence and later resumed.

The OSCE Mission in Kosovo has operated under the mandate of UNSC Resolution 1244 and the decision of the OSCE Permanent Council from July

1999. It has been the largest OSCE field operation running a wide range of activities: developing democratic institutions and civil society, promoting human rights and the rule of law, organizing five rounds of elections, helping the Central Election Commission, assisting the Assembly of Kosovo and other public institutions, monitoring the work of Kosovo institutions, providing training of public officials, developing an independent media environment etc. The Mission has employed some 550 people in its various units and around 2330 in its field operations.

The European Union Rule of Law Mission in Kosovo (EULEX Kosovo) was established in February 2008, started operating in December 2008, and by May 2010 comprised 2814 staff (1717 international staff and 1097 local staff). It has been supported by 28 EU member states and five contributing non-member states. EULEX' Executive Division investigates, prosecutes and adjudicates sensitive criminal cases, while the Strengthening Division monitors, mentors and advises local counterparts in the Kosovo police, judiciary and customs service.

The government of Serbia has maintained on its own territory a "Ministry for Kosovo & Metohija", outposts of Serbia's ministries, security organs, customs and tax authorities, postal services, courts, extraterritorial offices of the Kosovo municipalities located to the South of the Ibar River etc. It has exercised a considerable measure of control through its proxies over the predominantly Serbian municipalities in the North of Kosovo and in the enclaves to the South of the Ibar River.

Kosovo's proclamation of independence and its present status

Legally Kosovo has remained under the UN authority although this UN role became a legal fiction. A system of multilevel governance combined with international protectorate over Kosovo had officially operated for about twelve years (1999-2012).

All Serbian and former Yugoslav laws became there invalid, most legal archives and other administrative documentation have been missing (evacuated to Serbia proper) while the new UNMIK legislation was widely incomplete, resulting in a legal limbo in most of Kosovo.

The model of Kosovo's enhanced autonomy with Serbia had been for several years a solution preferred by Western powers. However the psychological fallout of Serbian repression in 1988-1991 and of the armed conflict in 1999 made its application politically impossible. The former President of Finland Marti Ahtisaari's "Comprehensive proposal for the Kosovo status settlement" commissioned by the UN Secretary General was submitted to the

UN Security Council in March 2007. Its key recommendation reads “Kosovo is a unique case that demands a unique solution. It does not create a precedent for other unresolved conflicts”¹⁵. The Ahtisaari plan envisaged internationally supervised (and thus limited) independence for Kosovo, with its distinct national symbols, the right to conclude international treaties and to seek membership in international organizations. Kosovo had to provide high level protection of the rights of national minorities and additional security for the Serbian Orthodox Church. The international community were to supervise, monitor and have all necessary powers to ensure effective and efficient implementation of the conflict settlement. However the adoption of Ahtisaari’s blueprint was blocked by the Russian Federation and by the People’s Republic of China.

After considerable vacillation the Western members of the Contact group (USA, Great Britain, France, Germany and Italy) had by 2007 concluded that the restoration of even only formal Serbian sovereignty over Kosovo would be totally politically unacceptable to and violently resisted by its majority Albanian population. Hence Kosovo’s limited and supervised independence was considered to be the least objectionable among all available alternatives. The acute international problem was then only formally resolved. The proclamation of Kosovo’s independence on February 18, 2008 *ex-post facto* legalized, by an internal act, Kosovo’s previous *de facto* detachment from Serbia. In its VIIIth principle the Helsinki Final Act of 1975 allowed for a peaceful change of state borders on the basis of democratically expressed self-determination. The Kosovo proclamation had indeed been preceded by several referenda and was carried out in a peaceful, orderly and civilized manner. The only acts of violence were committed then by the protesting Serbs, mostly in Serbia proper. Although the act of proclamation was carried out without an authorization by the UN Security Council, this body has not subsequently annulled Kosovo’s independence, as Serbia demanded. The Kosovo proclamation has presumably completed the almost two decades’ long dissolution of SFR Yugoslavia. Similarly as the neighboring Albania in 1912-1913 Kosovo was emancipated with the explicit support of Western powers and against the stiff opposition by Serbia, supported on both occasions by Russia.

The Belgrade government angrily responded to Kosovo’s declaration not only by an official refusal to acknowledge its independence but also by closing Serbia’s borders to trade with Kosovo. During demonstrations in Belgrade the Kostunica government more than tolerated the mob violence against several foreign embassies, accompanied by downtown looting and arson. Serbia also temporarily recalled its ambassadors from most states which recognized Kosovo as an independent state. The latter action was a Serbian variation of the Hallstein doctrine which was applied in the past by

15 *Report of the Special Envoy of the Secretary-General on Kosovo’s Future Status* (2007). United Nations, New York, p. 4.

the Federal Republic of Germany to punish selectively some states which recognized and established diplomatic relations with the German Democratic Republic.

Following Kosovo's proclamation of independence the government of Serbia started an action which initially looked as a shrewd diplomatic maneuver. Its immediate political objective was to mollify Serbian public opinion, to gain time and slow down the process of Kosovo's international recognition. In early October 2008 the Serbian delegation succeeded in obtaining an UN General Assembly's resolution demanding ICJ's advisory opinion on the accordance of Kosovo's 'unilateral declaration of independence' with international law¹⁶. The Serbian diplomacy however unwisely formulated the request. Namely, declarations of independence are facts which concern the internal constitutional and political orders of states. International law is mute on this subject, neither permitting nor prohibiting such declarations. In addition, the declaration was not really an unilateral act by Kosovo as its substance, wording and very timing were coordinated beforehand with the five Western members of the Contact group, including three permanent members of the UN Security Council. By adopting this document Kosovo only declared its intention to gain independence, voluntarily accepted numerous limitations of its sovereignty and did not in fact become an independent state.

According to the submitted Serbian statement¹⁷ the presumed illegality of the Kosovo declaration resulted from:

1. its violation of the principle of the respect for the territorial integrity of states;
2. the inapplicability of the principle of self-determination to Kosovo; and
3. its violation of the UN Security Council Resolution 1244 (which presumably affirmed Serbia's continuous sovereignty over Kosovo).

It took ICJ about a year and a half to decide on the UN General Assembly's request. The ICJ opinion was expected to fall somewhere between the two opposite sets of arguments satisfying fully neither of the two sides. Having examined the statements on the subject submitted by 32 states the International Court of Justice delivered its non-binding advisory opinion on July 22, 2010¹⁸. The Court surprised many observers by its conclusion adopted by the strong majority of ten to four votes. Following the procedural decision to limit its task to strict consideration of the submitted request the Court avoided dealing with wider issues of external self-determination which were raised in

16 *UN General Assembly Resolution 63/03*, (October 8, 2008). United Nations, New York.

17 International Court of Justice (April 15, 2009). *Written statement of the Government of the Republic of Serbia*. The Hague.

18 International Court of Justice. *Advisory Opinion on the Accordance with International Law of the Declaration of Independence in respect of Kosovo* (July 22, 2010). The Hague.

Serbia's submission, in the comments by Kosovo and by other states. Within this narrow legal framework ICJ straightforwardly determined that the declaration of Kosovo's independence did not violate the norms of general international law, the UNSC Resolution 1244 and the Constitutional Framework enacted by the UN Interim Administration. ICJ intentionally avoided to pronounce on or imply the legality and legitimacy of all declarations of independence. Very importantly ICJ did not base its opinion on the right to self-determination and did not at all deal with the question of Kosovo's international recognition. The Court has been criticized for having missed the opportunity to clarify a hotly contentious issue in international law.¹⁹ The political effects of the ICJ decision were however immediately and abundantly clear - a painful defeat for Serbian diplomacy and a vindication of Kosovo's position.

Since summer 1999 Kosovo has developed a separate from Serbia parliamentary political system, free market economy and adopted a different currency (the Euro). The economic, social and political situation in Kosovo has appreciably improved since separation from Serbia in 1999. It was largely due to international assistance (around 21% GNP) and to the Kosovars' remittances from abroad (roughly 15% of GNP). However the Pristina government still lacks control over Kosovo's entire territory, borders and population. The country has deficient economic viability, suffers from excessive external financial dependence and has been burdened by the region-wide problems of corruption, illegal trafficking and organized crime. A number of Kosovo's burning political and social problems have remained unresolved. Poverty (about 50% of the population) and very high unemployment (about 45% generally and about 75% among the females and the young)²⁰, poor governance, malfunctioning rule of law and the obstacles to free travel pose daunting problems to Kosovo's majority population.

While reflecting the benevolent involvement and good will by the international community the multilevel system of governance in Kosovo had proven to be too cumbersome, confusing and rather ineffective in providing for the normalization of inter-ethnic relations and for healthy social and economic progress in Kosovo. On September 10, 2012 the International Steering Group for Kosovo officially terminated the supervision of Kosovo's limited independence and closed the Office of the International Civilian Representative. However these symbolic acts have so far brought only moderate change in the real functioning of international tutelage over Kosovo. Its entire system is comprised at present of over 7000 international military, police and civilian personnel, without counting the foreign diplomatic personnel also involved in

19 Bieber, F. The Western Balkans after the ICJ opinion (2011). In Rupnik, J., pp. 135-144

20 Koro, L. A decade of socio-economic change in Kosovo (2010). In *A decade of international peacekeeping and stabilization in Kosovo – Accomplishments, problems, prospects*. Premiere, Ljubljana, pp. 17-22.

overseeing Kosovo and, at least, two thousand persons of local staff. A reduced Contact group consisting of five Western Ambassadors, supplemented by the EU Special Representative has reportedly held regular, weekly meetings with members of the Kosovo government.

The continuation of the UN mission (UNMIK) in its present form and size of 130 international staff has remained highly questionable in view of its greatly reduced scope of activities and of importance. At least, its renaming and redefinition of tasks have been long overdue. Any substantive reduction, let alone discontinuation of UNMIK, and a recommendation by the Security Council to the UN General Assembly to admit Kosovo as a member state have been prevented by the likelihood of the Russian Federation and China exercising their veto power. EULEX has been, so far, the biggest, presently about 1.200-strong EU mission in the framework of the EU Common Security and Defense Policy. The EU mission's results in fighting wide-spread corruption and organized crime in Kosovo have been meagre and hardly commensurable with the annual investment of over € 110 million in its functioning. The EULEX mandate was however extended by two years. KFOR's present strength of under 5.000 soldiers, provided by 31 NATO members and non-members, and its tasks have been under regular review by the North Atlantic Council.

By May 2015 Kosovo has been officially recognized by 108 member states of the Organization of United Nations. Included into this tally are three permanent members of UN Security Council, more than two thirds of the Council of Europe' membership and all Kosovo's immediate neighbors and all former Yugoslav republics with the exceptions of Serbia and Bosnia & Herzegovina. This evolution allowed for Kosovo's membership in some international organizations, such as the International Monetary Fund and the World Bank and in several regional bodies. However as long as Serbia maintains its opposition and the Russian Federation (firmly) and the People's Republic of China (more flexibly) support Serbia's position Kosovo cannot gain a seat in the Organization of United Nations and to enter the Organization for Security and Cooperation in Europe, Council of Europe etc. Although Kosovo's existence has been protected by international forces and its political survival secured this newcomer in the family of the European nations remains an incomplete structure and an "unfinished state".²¹

21 Surroi, V. *The unfinished state(s) in the Balkans and the EU: the next wave* (2011). In Rupnik, J., pp. 111-120.

The relations between Kosovo and Serbia

The conflictual relations between Serbia and Kosovo have been symbolically reflected in the different ways the latter is officially called. When Kosovo became a single administrative unit in 1945, after its annexation into the second Yugoslavia (FPRY) it was given a double official name “Kosovo and Metokhia”. Since the Albanian Kosovars have rejected its second half as colonial-smacking, the shortened single word designation was adopted in 1963. It reflected the enhanced status of an autonomous province within Serbia. When in 1989 Kosovo’s autonomy was *de facto* abolished by the Serbian regime under Slobodan Milosevic the double-word name was correspondingly and symbolically reinstated by Belgrade. The present first constitutional name of the land is Kosova with the Serbian variation Kosovo as the official second name. The state authorities in Serbia and defiant members and organizations of the Serbian minority in Kosovo however still use the double name while other states and international organizations utilize the one-word name Kosovo or Kosova.

The detachment and “loss” of Kosovo caused a painful psychological, political and existential trauma to its Serbian minority and continues to produce difficult problems to over a hundred thousand Serbian and Roma refugees in Serbia proper. For Serbia Kosovo has represented a problem of psychological and political readjustment, a financial “black hole” of several hundred million Euros annually, a considerable source of illegal smuggling and of organized crime (often related to drugs).

The UN General Assembly’s resolution of September 2010 officially sponsored jointly by Serbia and the 27 EU members paved the way to a dialogue between Belgrade and Pristina on practical matters, under the auspices of the European Union.²² While Kosovo has sought recognition and the establishment of normal relations with Serbia the former Prime Minister and at former Foreign Minister and current Foreign Minister Ivica Dacic had advocated a “readjustment” of borders. It would detach from Kosovo the area of around 1000 sq. km to the North of the Ibar River with four municipalities (Mitrovica North, Zvecan, Zubin Potok and Leposavic) and up to 40 thousand Serbs. The Western powers, on the other hand, stand firmly by the principle of maintaining the internal borders between the former federal units of ex-Yugoslavia, including those of the two autonomous provinces. They reject redrawing of any of them for the concern that it would open a Pandora box of territorial revandication elsewhere in the ex-Yugoslav space. Secondly, it is realistically feared that the detachment of Northern Kosovo would unleash a

22 UN General Assembly Resolution 10980 (September 2010). New York: United Nations.

mass exodus from the Serbian enclaves to the South of the Ibar River and decimate the Serbian minority in Kosovo.

Another conceivable solution of the conflict has been suggested – a condominium in Northern Kosovo, resembling the Good Friday agreement between Ireland and the United Kingdom over Ulster. Pristina has rejected any power sharing arrangements between Kosovo and Serbia or a tripartite power sharing arrangement with EU as they would compromise Kosovo's independence and territorial integrity. In addition a condominium would open the question of the adjacent Presevo-Bujanovac area in Southern Serbia which historically used to be part of Kosovo. This area has been predominantly inhabited by ethnic Albanians. The last census for the area gave the figures of about 57 thousand Albanian residents who constituted close to 90 percent of the total population in the Presevo municipality and about 55 percent in the Bujanovac municipality. The present absolute figures and percentages of the Albanians are probably still higher. In 1992 in an unofficial referendum about 95 percent of Albanian residents voted for unification with Kosovo.²³

The overcoming of obstacles on the thorny road of reconciliation and accommodation between the two states has been eased greatly by Serbia's desire to obtain the status of a candidate country, to open preadmission negotiations and eventually to join the European Union. The subterranean evolution of Serbian public opinion has allowed former Serbian ultranationalists, notably the current President Tomislav Nikolić, Prime Minister Aleksandar Vučić and Deputy Prime Minister Ivica Dačić to radically change the course and to admit the "loss" of Kosovo.²⁴ Responding to the European Union's pressure and inducements Serbia agreed in 2010 to start bilateral talks with Kosovo on outstanding practical problems. Since March 2011 they had been conducted under the EU auspices at the level of Prime Ministers and. Serbia's government took a positive step in August 2012 and stopped boycotting regional gatherings at which Kosovo was also present. Six rounds of talks in Brussels resulted by April 2013 in the conclusion of several agreements on normalization of relations without however Serbia's recognition of Kosovo as an independent state. On the basis of these agreements a *de facto* self-governing Community of Serbian Municipalities was to be created in Northern Kosovo, integrated into Kosovo's constitutional and legal system as well as a Northern police region. The agreements obliged Serbia to dissolve its concealed security structure in Kosovo and to integrate Serbian policemen in the North into the Kosovo police force. These and other relevant provisions in the agreements might open the way to and facilitate a revision of the UNSC Resolution 1244 or adopting a new one. Following the conclusion of the agreements the European Council granted Serbia the status of a candidate for EU

23 International Crisis Group. *Peace in Presevo: Quick Fix or Long Term Solution?* ICG Balkans Report No. 116 (10 August 2001). Pristina/Belgrade/Brussels, p. 2.

24 Elisabeth Pond. (2013), p. 7.

membership and authorized the opening of negotiations with Kosovo on a Stabilization and Association Agreement (SAA). In April 2013 the two Prime Ministers Ivica Dacic and Hashim Thaci signed in Brussels the “First Agreement on Principles Governing the Normalization of Relations” which was hailed as a historic achievement. It was concluded with the European’s Union facilitation and allowed for EU’s further positive steps and relations with both Serbia and Kosovo. However some agreed upon solutions of practical problems have not be yet implemented. By 2015 there were several positive developments in the normalization process – the conclusion of an agreement on judiciary and the first visit in Pristina of the Serbian Foreign Minister Ivica Dačić.

The Kosovo issue has split the international community, cutting across the former East-West divide. In 1999 it posed a serious challenge to NATO’s inner political cohesion and badly worsened its relations with the Russian Federation. The Alliance was able then to bridge the differences among its members and to reach a consensus concerning the pending military action against FRY and the KFOR’s subsequent deployment. Eight years after the establishment of an international protectorate the problem of Kosovo has again divided the EU and NATO members. In 2008 twenty-two EU and NATO Member States recognized Kosovo’s independence. A minority, notably Greece, Cyprus, Spain, Slovakia and Romania, have however followed Serbia’s position, largely for their internal political reasons. On the question of recognition of Kosovo, Abkhazia and Southern Ossetia most EU and NATO member states as well as the Russian Federation have applied double standards honoring the right to self-determination in one case and disregarding in the other(s).

Since 1998 – 1998 the Kosovo issue has split the international community, cutting across the former East-West divide. It posed a serious challenge to NATO’s inner political cohesion and badly worsened its relations with the Russian Federation. The Alliance was able then to bridge the differences among its members and to reach a consensus concerning the pending military action against FRY and the KFOR’s subsequent deployment since 1999. Eight years after the establishment of international protectorate the problem of Kosovo has again divided the EU and NATO members. In 2008 twenty-two EU and NATO Member States recognized Kosovo’s independence. A minority, notably Greece, Cyprus, Spain, Slovakia and Romania, have however followed Serbia’s rejectionist position, largely for their internal political reasons. On the question of the recognition of Kosovo, Abkhazia and Southern Ossetia most EU and NATO member states as well as the Russian Federation have applied double standards honoring the right to self-determination in one case and disregarding in the other(s). Since the proclamation of Kosovo’s independence in February 2008 the Kosovo problem has remained on

the agenda of UN Security Council, NATO's North Atlantic Council, and European Union's Council, the Council of Europe and OSCE.

On September 10, 2012 the International Steering Group for Kosovo officially terminated the supervision of Kosovo's limited independence and closed the Office of the International Civilian Representative. However these symbolic acts have so far brought a limited change in the functioning of the '*de facto*' international protectorate. Although the Kosovar Albanians (supported by the Kosovar Turks and several other smaller ethnic groups) achieved, with the West's direct support, their historical goal of getting rid of Belgrade's rule Kosovo will remain a controversial regional problem, not only for Serbia but also for Macedonia with its numerous Albanian minority. The young and very weak state will for many years require external attention and assistance of the international community.

The *de facto* normalized coexistence of Serbia and Kosovo, even without Kosovo's formal recognition by Serbia has already had positive effects on the political climate in the region. By its reasonable and constructive behavior the Republic of Serbia has improved its standing with the European Union as a candidate country and contributed to the stability in the Western Balkans. There was a constructive proposal according to which Serbia and Kosovo would regulate their bilateral relations similarly as used to be done in the past between the Federal Republic of Germany and the German Democratic Republic. The sooner the full normalization of relations between Serbia and Kosovo happens the better it would be for the entire region and for Europe.

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The normalization agreements between Kosovo and Serbia

Ilir Deda

More than six years after the declaration of independence, and two years after its supervised independence ended, Kosovo faces two distinct realities regarding its statehood and foreign relations: that of an independent entity and the one of a sovereign and independent state. It is treated as an independent entity in its relations with Euro-Atlantic institutions and majority of states which have not recognized Kosovo, while Serbia treats it as both a separate territory governed by United Nations (UN) Security Council (SC) Resolution 1244 and as a part of itself. On the other hand, Kosovo is treated as a sovereign state only at the bilateral level by the states which have recognized its independence. There is thus an imbalance between the scope and intensity of bilateral and multilateral relations that reflects the weakness of the current international legitimacy of Kosovo and the Western accommodation to a “status neutral” policy.

The Western view of the Pristina-Belgrade endgame is based on an unsubstantiated hope that one day Kosovo will be also formally recognized by Serbia. This Western policy is fundamentally flawed. It locks Kosovo in the situation of unfinished statehood. Demanding continuous internal rearrangements to make Kosovo’s independence acceptable to Serbia while smoothing Belgrade’s path to EU accession. Due to this policy Kosovo’s statehood is disputed internationally while internally it is forced to continuously transform of its state structures. By accepting this anomalous situation Kosovo pays a high price for Serbia’s acceptance of it as an independent entity – not a state – and unspecified contractual relations with the EU.

The European Union has played a key role in the process of normalization of relations between Kosovo and Serbia. Through the Office of the High Representative (HR) Catherine Ashton the EU became the sponsor and the facilitator of the dialogue. In its conclusions on December 11, 2012 the EU Council stated that Kosovo and Serbia needed to improve their relations as one of the important criteria for progress on their path towards EU integration and should not block one another in these efforts. The two states were also to implement in good faith all agreements reached in the dialogue.¹ The Republic of Serbia was requested to: (1) dismantle its illegal justice and police insti-

1 See Council Conclusions on Enlargement and Stabilization and Association Process, 3210 General Affairs Council Meeting in Brussels at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf, p. 11.

tutions in Northern Kosovo, (2) make the funding of its sponsored institutions in Kosovo transparent, and (3) through improved cooperation with EULEX make functional the Mitrovica Court House. The Republic of Kosovo, on the other hand, was assured of a single institutional and administrative system throughout its entire territory. Kosovo was also obliged to develop an outreach plan and address “particular needs” of the local Serbian population in Northern Kosovo. In its conclusions, the EU Council expressed its support for the political dialogue between Kosovo and Serbia, welcomed the progress made in the implementation of the Integrated Border Management (IBM), the decision to appoint liaison persons, the agreement regarding the transparent flow of funds to the Serbian community in Kosovo, and the decision of Kosovo to improve the protection of religious and cultural heritage through the creation of a special unit within the Kosovo Police.

In order to strengthen Kosovo’s position in the negotiations, the Assembly of Kosovo adopted on 18 October 2012 a “Resolution on Normalization of Relations between the Republic of Kosovo and the Republic of Serbia”². In it the Assembly supported the dialogue. It also stated that the results of the dialogue should be in accordance with Kosovo’s sovereignty, international subjectivity, territorial integrity and with its constitutional order. Furthermore, the resolution stated that the agreements reached in the political dialogue should be ratified by the Kosovo Assembly. This resolution was soon violated further decreasing public trust in the results of the dialogue. The Assembly of Kosovo adopted subsequently two more resolutions and in them took three contradictory positions on the process of normalization. If it were to be fully respected by the Kosovo government the dialogue could have not produced any results.

Meetings between the two sides continued in Brussels, on the premises of the EU High Representative. The role of a “facilitator” was considered necessary to keep the process running and to ensure, through the EU policy of a “carrot and stick” that agreements are indeed reached and begin being implemented on the ground. Using the appeal of EU accession, Brussels strengthened its role as the guarantor of the agreements. On 19 April 2013 Kosovo and Serbia concluded, the “First Agreement on Principles Governing the Normalization of Relations” which was hailed as a historic achievement.

In May 2013 in a public opinion poll the Kosovars were asked how they felt about the agreement struck in April. The Albanian Kosovars were divided – 43% supported of the agreement, while 38% opposed and 19% were undecided or did not reply.³ The Kosovo Serbs were less supportive – those

2 See Assembly of Kosovo documents at http://www.kuvendikosoves.org/common/docs/Rezolute_Marredhenive_Kosova_Serbia.pdf.

3 Kosovar Center for Security Studies, *Kosovo Security Barometer – The Voices of Kosovo: Insights and Perceptions*, May 22, 2013, pg. 11. <http://www.qkss.org/en-us/Reports/Kosovo-Security-Barometer---The-voices-of-Kosovo:-Insights-and-Perceptions-157>.

living in Northern Kosovo predominantly opposed the agreement while those residing South of Ibar river Ibar predominantly supported it. The “First Agreement” was ratified by the Assembly of Kosovo on 27 June 2013, when out of 120 MPs 84 voted in favor, 3 against and 1 abstained.

During thirteen rounds of meetings from 19 October 2012 to 21 June 2013 Kosovo’s Prime-Minister Hashim Thaci and Serbia’s Prime-Minister Ivica Dacic reached a number of agreements:

- Agreement on the Exchange of Liaison Officers and on a special multiethnic Kosovo Police unit to protect the Serbian Religious and Cultural Heritage

The first action of implementation occurred on June 17, 2013 with the deployment of Liaison Officers (LO) in Belgrade and Pristina respectively. Only two days after starting his mission as a Kosovo LO to Belgrade, the former Kosovo Ambassador to Sweden, Lulzim Peci, offered his resignation to Kosovo’s President, Atifete Jahjaga. The main reason were the criticisms Kosovo Prime-Minister following his statement that the normalization of relations will be reached only when Serbia and Kosovo mutually recognize each other as sovereign states. On the other hand, the Serbian LO to Kosovo, Dejan Pavicevic stated in Pristina that Serbia will never recognize Kosovo. On 20 June 2013 after Peci’s resignation, Valdet Sadiku, the former Kosovo Ambassador to Croatia, was appointed as Kosovo’s LO to Serbia.

On April 2013 the Kosovo Police has created a two hundred-strong Special Multiethnic Kosovo Police Unit. This unit was placed within the Division of Special Units, Directorate for the Security of Important Facilities and Personalities. The mission of these 200 policemen is to protect externally the Cultural Heritage and Religious Facilities. This unit cooperates closely with municipalities, police stations and religious clerics.

- Agreement on a Special Fund for Northern Kosovo

Since the establishment of the Integrated Border Management posts it was required that all goods entering Kosovo were subject to custom duties as required by the Kosovo laws. The Kosovo Serbs, however, refused to pay duties to the Kosovo budget. On 17 January 2013, the two Prime-Ministers provisionally agreed on the collection of customs duties, levies and VAT with Kosovo as a single customs zone. The Kosovo Serbs in the North will begin paying customs duties, levies and VAT to the joint Fund for economic and infrastructural development of Northern Kosovo. Details of this agreement were not however made public with the two sides giving contradictory interpretations. The Kosovo government proposed an amendment to the Kosovo Budget Law for 2013. The budgetary implications of this agreement have been estimated at around 6 million Euros, with 10 million Euros provided additionally by the EU and Serbia. This Fund will be managed by the EU

Office in Kosovo, the Kosovo Government, the Community of Serbian municipalities while the role of the government of Serbia was left undetermined. Southern Mitrovica was excluded from the functioning of the Fund. Instead of contributing to interethnic cooperation this exclusion will deepen the ethnic division at the Ibar bridge.

- Agreement on the Principles of Normalization

On April 19, 2013 a 15 point agreement was reached on the framework of Northern Kosovo's inclusion into the Republic of Kosovo's legal system. The agreement created a *de-facto* Kosovo Serbian self-governing entity with provisions conflicting with Kosovo's Constitution and applicable laws. Nevertheless on 28 May 2013, the Kosovo government submitted to the Kosovo Assembly the plan of its implementation. Under Kosovo's Constitution international agreements should be ratified by a two thirds (2/3) majority when the issues of territory, peace, alliances, security and military matters, human rights and fundamental freedoms are considered. Furthermore, international agreements ratified by the Kosovo Assembly have precedence over the Constitution and the laws of Kosovo. Since the agreement was initialed as a final draft but signed neither by the Serbian Prime-Minister nor by the EU High Representative Catherine Ashton the question whether this accord could be qualified as an international agreement has been a subject of intense internal debate.⁴ Nevertheless on 27 June, 2013 the Assembly of Kosovo ratified the agreement as an international agreement with 84 votes in favor, 3 against, and 1 abstention.

- Agreement on the Implementation Plan

On 21 May 2013 the two Prime-Ministers and the EU High Representative Catherine Ashton initialed "The Implementation Plan on the Principles Governing the Normalization of Relations. In it the parties agreed on the establishment of an Implementation Committee and on deadlines for specific measures.

The Implementation Plan called for the enactment by both Kosovo and Serbia by mid-June 2013 of "all necessary legal changes" required for the implementation of the First Agreement. On June 18, 2013 the Kosovo Assembly amended: the "Law on Local Self-Government" and the "Law on Protection and Promotion of the Rights of Communities and their Members in the Republic of Kosovo". On 25 June 2013 the Government of Kosovo approved a draft "Law on Amnesty". Serbia had conditioned the dissolution of its structures in police and judiciary with the passing of this law. It remains unclear how many more Kosovo laws will have to be amended.

4 See *First Agreement* at <http://www.rts.rs/upload/storyBoxFileData/2013/04/20/3224318/Originalni%20tekst%20Predloga%20sporazuma.pdf>.

Article 10 of the Normalization Agreement foresees the integration and operation of all judicial authorities within the Kosovo legal framework. Furthermore, according to the agreement the Appellate Court in Pristina will establish a division to deal with the municipalities containing a Kosovo Serbian majority. Its administrative staff and judges will be sitting permanently in Northern Mitrovica (Mitrovica District Court). Each panel of the above division will have a majority of Kosovo Serbian judges. Thus the Agreement creates a de-facto separate Kosovo Serbian Appellate Court. In accordance with the agreement, Serbia instructed the branch of its Appellate Court in Northern Mitrovica to stop accepting new cases on 15 July, 2013 and to solve as many received cases as possible by 31 August 2013. The employment of its personnel by Serbia was to be terminated by 1 September, 2013.

The Article 124, Chapter 10 of the Constitution of Kosovo, incorporates two distinct and separate forms of municipal cooperation derived from Ahtisaari's Plan⁵. The first is through an *association of municipalities*, and the second through *municipal partnerships*. An association can be created by several municipalities to offer training, capacity building, technical assistance, policy research and policy recommendations to municipalities. Such an association is a non-profit organization offering services, organizing and coordinating activities of its members and promoting inter-municipal cooperation. The second – municipal partnerships – can be formed between two or more municipalities to provide joint services. Through partnerships municipalities can cooperate within their *own* or *enhanced* competencies, but not on *delegated* ones. Through partnerships municipalities can jointly execute their competencies and provide joint services, but not through an association of municipalities.

The Normalization Agreement merged the two forms of municipal cooperation – the associations and partnerships, by explicitly allowing the Kosovo Serbian municipalities to collectively exercise joint governance through the Community of Serbian Municipalities in its own, enhanced and delegated competencies. The Agreement listed four distinct executive competencies of the Community of Serbian Municipalities (ZSO) in economic development, education, health, urban and rural planning. The ZSO will be governed by the Statute of the ZSO; will have a President, Vice-President, Assembly and a Council. The ZSO may dissolve itself only with an approval of the participating municipalities. In addition to these powers, the ZSO will also have a representative role as a separate entity at Kosovo's central institutions and for this purpose have a separate seat at the President's Consultative Council of Communities. Also, the ZSO, jointly with the EU and the Kosovo Government, will manage the "Fund for the North". It will receive separate funds from Serbia; can obtain additional delegated competencies by Serbia after it

5 Constitution of the Republic of Kosovo, Chapter X, article 124 (Local Government and territorial organization).

enacts its constitutional law. Furthermore, in Northern Kosovo there will be a new company that will produce electricity and provide distribution services to customers in the four northern municipalities with Serbian majorities. This company will be able to buy and sell electricity on the open market, independently from the KEDS in Pristina. The entire territory of the future ZSO and other Kosovo Serbian settlements will be provided with telephone services by separate, subsidiaries of Serbia's companies.

The Implementation Plan called for the creation of a Management Team by both parties for the establishment of the ZSO by the end of May, 2014. On 14 June 2013 the Government of Serbia appointed the four-member ZSO Management Team. It has created a precedent of Serbia's role in the future concurrent governance with Pristina in Northern Kosovo. However the government of Kosovo has not officially confirmed the Management Team as the Implementation plan envisaged. This Management Team was to draft the Statute of the ZSO. The Kosovo "Law on Local Self-Government", contains provisions for the ZSO, including those on its general scope of activities and on its dissolution. The amended "Law on Protection and Promotion of Communities and their Members" provides for the representation of the ZSO in the Community Consultative Council (CCC) at the Office of the President of Kosovo (OP). Pristina and Belgrade still have to produce a detailed plan and timetable for the integration of the Serbian security personnel into Kosovo structures and for the establishment of any new structures to be carried out with the assistance of EULEX.

The Normalization Agreement creates a Northern police region composed of four municipalities: Mitrovica North, Zvečan, Zubin Potok and Leposavić, with a Kosovo Serbian regional police commander. Unlike the other regional commanders in Kosovo the Serbian regional commander will be proposed by the four mayors on behalf of the ZSO. He will be appointed by the Kosovo Ministry of Internal Affairs bypassing the Director General of the Kosovo Police (DG) who normally selects all regional commanders. The Implementation plan called for the establishment of a joint Kosovo-Serbia working group to implement Articles 7-9 of the First Agreement, and for the appointment by the end of May, 2013 of an Acting Regional Police Commander for four northern municipalities. Following a meeting of the two Prime Ministers in Brussels on 20 June 2013, on a proposal by Belgrade on behalf of ZSO and northern municipalities the Kosovo Minister of Interior Bajram Rexhepi appointed an acting Police Director for the four Northern municipalities. There was, however, no legal basis for this appointment as the person was not nominated by the Director General of the Police. Furthermore this appointee Nenad Djurić was in 2011 dismissed from the Kosovo Police on an explicit proposal by the Director General and by the same minister. The grounds for the dismissal were his misconduct, disobedience and abetting criminal activities. Nenad Djurić's new appointment was made even prior the vote on the "Am-

nesty Law” by the Kosovo Assembly. Serbia disclosed later the names of its 800 security personnel in Northern Kosovo and in accordance with the Normalization Agreement allowed for their full integration in to Kosovo’s relevant institutions.

The Normalization Agreement creates a *de-facto* separate Kosovo Serbian authority with conflicting legal guarantees by Kosovo laws and Serbia’s constitutional law. In a situation where Serbia does not recognize Kosovo’s independence this new body will function within a hybrid status framework, deriving its legality and legitimacy from two contradictory constitutions. It will mean in fact a shared sovereignty and co-governance by Kosovo and Serbia over the Kosovo Serbs. The Normalization Agreement legalized an institutional separation of the Kosovo Serbs from other ethnic communities thus undoing the efforts by the international community to build Kosovo as a multi-ethnic society and state. The Agreement went far from the Ahtisaari’s Comprehensive Status Proposal (CSP) by laying down the foundation for a new character of our young state. Instead of a multi-ethnic society the Brussels Agreement transforms Kosovo into an unfinished bi-national state. This Normalization Agreement also showed the inability of the central Kosovo institutions to build a true partnership with the Kosovo Serbs South of the Ibar river and penalized them for the unfinished process of decentralization. The Normalization Agreement reflected the inability and/or lack of will of both the Kosovo Albanian leadership and of the international community to build true multi-ethnic institutions. Ultimately, it has allowed Belgrade to maintain the separation of the Kosovo Serbs from Pristina.

On 28 June, 2013, the European Council decided to open the accession negotiations with Serbia at the latest by January 2014, pending full implementation of the Normalization Agreement. It also authorized the opening of negotiations with Kosovo on a Stabilization and Association Agreement (SAA). The EU thus rewarded Kosovo and Serbia for the positive steps taken to normalize their relations. In January 2014 the EU Council confirmed its decision to begin accession negotiations with Serbia and its intention to conclude a SAA with Kosovo.

The Implementation Plan envisaged holding local elections in Northern Kosovo in October 2013. The elections were in fact held on 3 November, 2013, and the runoff on 1 December, 2013. The Kosovo Serbian political scene has undergone the most dramatic political change. Belgrade created, sponsored and financed the Civic Initiative “Srpska” (GIS) dominated by affiliates of Serbia’s governing parties. This coalition won in nine out of ten municipalities with Kosovo Serbian majorities. This victory has marginalized the Kosovo Serbian Independent Liberal Party (SLS) and all other Serbian political groups. As a consequence Belgrade has become a direct political actor and an important stakeholder in Kosovo’s domestic politics. The GIS

will probably become the dominant political force among the Kosovo Serbs thus making Serbia a *de-facto* partner in the future government of Kosovo.

The current framework of the dialogue freezes the *status quo* by legalizing Kosovo's internal partition and making normalization sustainable in the short run, but with the possibility for a potential conflict in the long run. Therefore, the current dialogue need to be modified in order to create conditions for true normalization of relations between Kosovo and Serbia and to diminish the potential of regional destabilization. As an interim solution for the management of relations between Kosovo and Serbia, until Serbia's formal recognition of Kosovo, the following elements should be included into a possible, legally binding treaty on normalization of relations:

- a) Serbia would be explicitly and legally obliged not to consider Kosovo (or the ZSO) as part of its territory and of its constitutional and legal framework;
- b) Serbia would remove Kosovo from its national defense strategy, where it defined Kosovo as the main threat and act accordingly.
- c) Kosovo's full membership in the UN and all other international organizations should be explicitly allowed, making the question of Kosovo's independence obsolete for the five EU non-recognizers.

Finally, the above-stated provisions would enable the UN Security Council either to amend the Resolution 1244, or to adopt a new one based on the provisions of this treaty.

The Kosovo Serbs and normalization

Oliver Ivanović

Since the last local elections in Kosovo, everything remains the same yet is completely different. Although the agreements between Belgrade and Pristina on police integration and partly on the judiciary were achieved earlier, the key element in the Brussels Agreement was essentially the holding of democratic, free and fair local elections, which would be organized according to legal regulations of Pristina and not those of Serbia. The Chief outcome of the agreement will be municipal self-government in municipalities with Serbian majorities which from now on would operate under Kosovo's laws. At the same time the elections in December 2013 confirmed that the government of Serbia remains the most influential stakeholder among the Kosovo Serbs. This is due to the fact that out of ten municipalities with Serbian majorities in nine the mayors-elect were nominated on the "Srpska" electoral ticket which was directly and more than obviously promoted and supported by Belgrade. In fact, by putting all its resources, from logistics to financial means, at the "Srpska" disposal the government of Serbia wished to demonstrate the extent of its influence in Kosovo also in the election process.

This influence is a reality which even the Pristina authorities cannot deny. Whether they like it or not, they will have in the future to discuss everything with representatives of the Kosovo Serbian local self-government who are essentially exponents of the Republic of Serbia's government. This outcome could have two sides. The upside is the strengthening of the homogeneity of our Kosovo Serbian community on common standpoints concerning all politically sensitive issues. The downside could be however exploiting this influence in order to prevent the formation of an authentic and autonomous Serbian political opinion in Kosovo. We shall see very soon whether the development of anything resembling a free Kosovo Serbian thought will be allowed at all. The alternative would result in maintaining in Kosovo mere affiliates of Belgrade's political parties who would have only limited autonomy in making even the simplest decisions.

The elections to the Serbian Assembly have always been very important for the Serbian communities in Kosovo. The participation of the Kosovo Serbs, even in smallest numbers has maintained the feeling of participation in the public and political life of the only state they considered to be their own. Their influence on the power balance in Serbia has been however minimal. Considering the average turnout of 40,000 voters, in addition dispersed among five or six political parties, this impact could be hardly stronger. Yet, even mere participation in Serbia's elections meant has psychologically a lot

to the Kosovo Serbs. For political parties in Serbia it was also important, if only in words, in order to show that Kosovo remained high on their declared priority lists.

Any attempt to ban these elections in Kosovo would cause an enormous indignation among the Kosovo Serbs and would have direct and negative consequences for their future relations with the common institutions in Kosovo and with the international community. I do not rule out the possibility that Pristina will undertake in this connection its own political maneuvers. For example, it could request as a measure of reciprocity that the Albanians in southern Serbia be allowed to cast their ballots in the forthcoming parliamentary elections in Kosovo. However, there can be no reciprocity in these matters. There were already similar attempts by Pristina as it has tried to draw a parallel between the position of the Albanians in southern Serbia and that of the Kosovo Serbs. All these requests have been stonewalled.

I believe that for the Kosovo Serbs the functioning of the Community of Serbian Municipalities (CSM) is more politically important than their participation in Serbia's and Kosovo's parliamentary elections, since they will be more dependent on it than on either of the two parliaments. It should be kept in mind that by accepting the Brussels Agreement Serbia has renounced its direct funding of the Serbian communities in Kosovo. Consequently all Kosovo Serbian institutions of health, education, culture, media and social welfare will be heretofore financed through the CSM. There is also no doubt that on the basis of the Brussels Agreement the CSM will become an important political institution. Although without legislative prerogatives it will have considerable executive powers. The most important for the Kosovo Serbs will be that they will have a representative body virtually in charge of all local affairs. There is no doubt however that the strength of the Community will be highly dependent on its leaders. Namely in our part of the Balkans there is still a valid rule that an institution is as significant as the credibility its leaders. It is thus normal to expect that a clear picture will appear only after all local elections, including those in Kosovska Mitrovica. The Republic of Serbia's government lacks a clear concept of the CSM and still wanders between the previous delegated and a new combined representative model. It cannot any more decide on its own but is forced to consult with the Pristina authorities and with the international community, primarily with Brussels. It is quite clear that the Community of Serbian Municipalities, if established properly, and with a clear framework, program and vision would be a true partner of the government of the Republic of Serbia. On the other hand, Belgrade would be the only capital which the CSM would address without any hesitation.

For the moment the Kosovo Serbs do not have the same political interests as the Pristina authorities. However common day-to-day needs will stimulate activities to assure a better life in entire Kosovo. And this is why the CSM

needs to work together with Pristina on the shared pragmatic objectives. But any unacceptable demand either by Pristina or by Brussels will meet stiff opposition by the CMS. It should be kept in mind that the very existence of the CMS will no doubt reduce Pristina's impact on day-to-day lives of the Kosovo Serbs. The Kosovo Serbs will never agree with Kosovo's separation from Serbia, but the level and manifestations of their opposition will depend on where they live and work to the north or to the south of the Ibar River. It will also depend on one's personal position, occupation, place of work, on whether one's company's owner is a Serb or an Albanian etc.

The Brussels Agreement was signed by Belgrade with Pristina. One of its tests is the integration of Kosovo Serbian police officers into the Kosovo Police. I doubt that many of them will indeed enter the system which is not only new to them but also illegitimate. A no less sensitive subject is the integration of judiciary, since there is no room for all, almost 400 Kosovo Serbian judges and prosecutors who were so far on the Republic of Serbia's payroll. Moreover they will have to learn new, Kosovo's laws and to act according to them. This is due to a provision in the Brussels Agreement by which Serbia agreed to have Kosovo laws implemented throughout Kosovo's territory. Still, the hardest for us, the Kosovo Serbs will be to accept the Kosovo Security Force since it has been most directly linked to the former Kosovo Liberation Army. The latter was responsible in the past for many crimes against the Kosovo Serbs and was previously declared by Serbia's authorities to be a terrorist organization.

The mayors and counsellors elected in November 2013 have been torn between their yesterday's mode of thinking exclusively within the framework of the Republic of Serbia's system, Serbia's laws and their strong ties to official Belgrade and, on the other hand, the present Kosovo system and its laws. The international community wishes to see soon the full integration of the Kosovo Serbs into the Republic of Kosovo's system, society, public and political life. It is willing to support and stimulate this integration by channeling considerable funds, especially to Northern Kosovo. In spite of the undisputed benefits of rebuilding Kosovo's infrastructure I am afraid that the whole endeavor is based on the false premise that the Kosovo Serbs' acquiescence could be bought.

Since thousands of Kosovo Serbs are being taken off the Republic of Serbia's payrolls there is a threat of social instability in the Serbian-inhabited areas of Kosovo. Many Kosovo Serbs are yet to be convinced that state employment is not the only mode of providing for living but they should engage themselves also in small private enterprises, in crafts, trade, agriculture etc. Of course, all these activities require prerequisites and, above all, initial financing. In this regard the assistance by the Republic of Serbia's government, by the international community, and by the Kosovo government is indispensable. This assistance should not be given for propaganda purposes but

ought to be an act of responsible authorities regardless whether they are in Belgrade, Pristina or Brussels. These authorities should manage the consequences of the tectonic change for the Kosovo Serbs. Independent Kosovo is a reality that cannot be ignored any more and we have to work towards the creation of a better living in Kosovo. This requires the building of mutual trust which takes time and efforts but could be easily destroyed. Until recently the Kosovo Serbs believed to have lived in Serbia but from now on, although remaining loyal citizens of Serbia, they will have to live under Kosovo's laws and regulations.

Serbia's Recognizing Realities

Sonja Biserko

The normalization agreement between Serbia and Kosovo, signed on April 19, 2013 has been crucial for both regional and bilateral stabilization. The agreement put an end to the region's fragmentation along ethnic lines and to the illusion of Serbia's political and intellectual elites that a shift in international constellation would play into Serbia's hands and enable a partition of Kosovo. A "historical agreement" with the Kosovo-Albanians implying the partition scenario for Kosovo has been planned from the very beginning of ex-Yugoslavia's disintegration. Refraining from openly advocating this option Belgrade hypocritically insisted on the inseparability of its "south province" as cemented by Serbia's Constitution of 2006. Actually Belgrade has been adjusting its Kosovo policy to the one for Bosnia-Herzegovina while waiting for the right moment to come up openly with the partition scenario. Ivica Dačić finally uttered it in spring 2011. Other officials such as Foreign Minister Vuk Jeremic followed in his footsteps. The normalization agreement however practically guarantees Pristina's sovereignty over the entire territory of Kosovo and implements the provisions of the 2007 Ahtisaari plan for the autonomy of the Serbian community.

The fact that EU practically imposed the agreement on the official Belgrade does not make it less important. The years-long negotiation process was opened by the previous Serbian government headed by the Democratic Party which concluded several "technical" agreements with Pristina. The advisory opinion on Kosovo by the International Court of Justice stating that its declaration of independence did not violate international law (2010) provided a legal basis for the negotiations.

Faced with strong resistance from the conservative bloc and the grey zone of politics, Prime Minister Ivica Dacic skillfully maneuvered between Brussels' requests and domestic criticism. The ruling coalition – having itself travelled a long path from a denial to an acceptance – obtained domestically significant political legitimacy due to the political turn. The Serbian government confirmed the agreement only two days after it was initialled in Brussels, while the parliament ratified it with 173 votes out of 250. A political consensus was very high with almost all opposition parties backing the agreement. Only Kostunica's Democratic Party of Serbia /DSS/ voted against it. The anti-European forces which, apart from DSS, included the Serbian Radical Party, unrepresented in the parliament, and various right-wing groups, failed to stage massive protests aimed at annulling the agreement. Not even with the Serbian Orthodox Church's open support this part of Ser-

bia's social and political scene could not prevent the almost smooth political turnabout concerning Kosovo. The leaders of Serbian municipalities in Northern Kosovo also raised their voice against the agreement, threatened with a referendum but missed the mark.

All relevant international actors as well as the pro-European part of the Serbian civil society welcomed the conclusion of the Belgrade – Pristina agreement. The support from the Serbs south of the Ibar river was also extremely important during the whole negotiating process.

The first eight rounds of talks between Serbia's and Kosovo's Prime Ministers Ivica Dacic and Hashim Thaci settled some key issues such as integrated border management,¹ especially sensitive at the two "most sensitive" crossings – Brnjak and Jarinje. The border management agreement tipped the balance in the entire negotiating process. The seventh round was the most difficult test of Belgrade's cooperativeness as the Serbian side had to give up the partition scenario for Kosovo on which it had insisted from the very beginning. In the turmoil on Serbia's political scene two positions crystallized: a pragmatic stand of Ivica Dacic, on one hand, and, on the other, a strong anti-European and xenophobic stand of influential conservative circles who counted on President Tomislav Nikolic's support. The encounters in Brussels between I. Dacic and H. Thaci gradually prepared the Serbian public opinion to accept the normalization of relations with Pristina as unavoidable. This gave the government an alibi to move on.

Concessions made by Belgrade did not undermine the normalization agreement's strategic dimension – a definite withdrawal of Serbia and of its institutions from Northern Kosovo. What Belgrade called "a maximum under given circumstances" referred to the fact that only four municipalities with a Serbian majority population (and only Northern Mitrovica) will make an autonomous entity in Northern Kosovo and that this community of municipalities will have institutions of its own. According to official Belgrade a major accomplishment of the normalization agreement is the Serbian community's right to nominate a regional police commander and to have an appellate court in Northern Mitrovica. Finally, Serbia asked for and obtained NATO's guarantees that the Kosovo security forces would not enter and operate in Northern Kosovo without the Serbian community's consent, unless specifically ordered by the North Atlantic Alliance.

After 25 years of an irrational hegemonistic policy the Serbian elites finally changed the course. "Knin, Vukovar, Bosnia, Kosovo were all parts of a problem without a solution which did not allow us to deal with other matters", wrote Prime Minister Ivica Dacic in his article for the daily *Politika*. Thanks also to correct media coverage of the Brussels negotiations the Serbian public finally calmly recognized the reality.

1 It means that the parties will gradually set up the joint, integrated, single and secure posts at all their common crossing points and EULEX will be present.

In the 1980s the Serbian Orthodox Church had played a major role in advocating the policy of conflict and strongly influenced all Serbian governments. During the dramatic parliamentary debate on the Brussels Agreement the Church published Patriarch Irinej's appeal on behalf of the Holy Synod and of its believers. The Patriarch directly requested the three highest state officials – President, Prime Minister and Vice-Prime Minister – to keep their “promises made during the election campaign and in the post-election period to never and on no account surrender, betray or sell Kosovo and Mehotija, the historical ‘Old Serbia’.”² “We shall not accept Europe's invitation conditioned by Kosovo. If they expect us to abandon and surrender Kosovo we shall respond with ‘no, thank you’ and persevere with the hard and painful life of the past five hundred years”, stated the Patriarch repeating the Church's most frequently used argument against the normalization agreement.³ Prime Minister I. Dacic called the appeal superfluous. He retorted harshly that the church should not tell the people “we all should be crucified and suffer for the next 500 years to see cloudless skies”. He also reminded the church dignitaries that their message was not sent from Peć but from Belgrade. “This means that the Serb Patriarchs abandoned Kosovo already in 1690”.⁴ This time the Church suffered a clear defeat. The government made the Church understand that there was no place for it any more in Serbian politics. As the crucial decision drew closer the Church's laic allies noticed that it calmed down its Kosovo-related rhetoric and openly criticized the Church's opportunism.

Fortunately the incumbent Serbian leaders in the North failed to prevent the signing of the agreement despite raised tensions, barricades and incidents they organized and threats they made. They could still obstruct the implementation of the agreement in a variety of ways. However it is evident that they lost Belgrade's support for operating within Serbia's institutional system and the power to mobilize their own people for subverting regional stability. The success of implementation will depend primarily on the resoluteness of Serbia's ruling coalition's to pursue normalization. The head of the DSS parliamentary caucus Slobodan Samardžić stated: “All we can look forward to is the non-implementation of the agreement. Now that you have signed it you are guilty of treason in the true sense of the word. You have betrayed national interests, ... giving up our territory and people ... You have promised to help them, but you will be helping them as you helped the Serbs in Romania, Hungary, Bosnia, Croatia, etc.”⁵ The conservative bloc was disappointed by the fact that the Serbian Progressive Party, once in power failed to effect a

2 Danas, April 8, 2013.

3 S. <http://www.vesti-online.com/Vesti/Srbija/272343/Pravda-za-srpske-zrtve-Parastos-protiv-presude-Haga>.

4 Politika, April 8, 2013.

5 Parliamentary debate of April 13, 2013.

clear break with the previous “treacherous” policy of the Democratic Party and of its then leader Boris Tadic. The conservative bloc’s advocacy of forming a “strong patriotic bloc” as “a genuine opposition and a new force on the Serbian political scene” sounds today like a pipedream.

The historic agreement between Serbia and Kosovo opened the way to regional peace, stability and good neighborly relations. The biggest challenge for the Serbian side has been the implementation of the Brussels agreement and closing down its parallel institutions in Northern Kosovo, above all the security structures whose presence the Serbian government had long denied. The Brussels Agreement as a whole provides Serbia with an opportunity to exert considerable influence on Kosovo parliament and local self-government institutions. On the other hand, its influence is slight when it comes to protecting Serbian cultural identity because the Serbian community does not accept the status of a national minority.

The normalization of Belgrade-Pristina relations has been burdened with insufficient capabilities on both sides, high expectations and relatively tight deadlines – in the first place for changing both communities’ mindsets. The predominant Serbian mindset⁶ is reflected in the statement by Serbia’s President Tomislav Nikolic, “We are aware that we can hardly survive without membership of EU but we are also aware that we cannot survive at all without Kosovo and Metokhia.”⁷ Given resistance to normalization within the government itself Belgrade might well slow down the process of normalization. Civil society in Serbia can play an important role in monitoring the Brussels agreements and in developing good neighborly relations, primarily through educational outreach programs. The Serbia-Kosovo relations cannot be stable as long as negative stereotypes about the Albanian Kosovars predominate in Serbian citizens’ perception. The biggest challenge will be to activate the Kosovo Serbian forces willing to work for the integration of Northern Kosovo into Kosovo’s legal system thus helping the Serbs in Northern Kosovo to easier accept and live up with the Brussels agreements.

The Ukrainian crisis and Russia’s canceling the South Stream project once again challenged Serbia’s “both EU and Russia” policy, similar to the once “both Kosovo and EU” mantra. Considering Serbia’s candidacy status for EU membership, the country is under growing pressure to adjust its international posture to EU’s Common Foreign and Security Policy. Prime Minister A. Vucic stated that Serbia supported Ukraine’s territorial integrity. On the other hand, he and President T. Nikolic keep avoiding to condemn publicly Crimea’s secession from Ukraine and its annexation by Russia.

6 Ethnic discrimination, verbal and physical attacks against “different” persons or groups in the Balkans countries is still a reality.

7 S. <http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:454249-Nikolic-Tesko-cemo-preziveti-bez-EU-a-bez-KiM-ne-mozemo>.

Ukraine vs. Russia

Crimea and the Ukrainian-Russian conflict

Anton Bebler

The most recent addition to the list of “frozen” conflicts in Europe appeared in spring 2014 – the Ukrainian-Russian dispute over Crimea. This conflict has been closely related to the attempted secessions from Ukraine of the “Donetsk People’s Republic” and the “Lugansk People’s Republic” and to the armed violence in Eastern Ukraine in which the Russian Federation has been heavily implicated. However the latter conflicts differ in some respects from the Crimean conflict.

Like four other conflicts reviewed in the preceding chapters, Crimea is geographically located on the Southern periphery of the former Soviet Union. Substantively, the newest conflict bears a number of similarities with the four other ex-Soviet cases. The ex-Soviet entities involved in these conflicts share up to a two centuries-long history of Russian imperialism and, subsequently, of Soviet communist rule. The Russian rule of these entities was preceded by up to three centuries of direct Ottoman rule or of strong dependency on the Sublime Porte. In the XVIIIth and XIXth centuries, following Russian victories in several wars against the Ottomans the five lands were militarily conquered by or ceded to and then annexed by the Russian Empire. Russian expansion in the Black Sea region and in the Caucasus had been strongly opposed by the Western powers – Great Britain, France and Austria/Austro-Hungary. This opposition began in the mid-XIX century and resulted in a direct military confrontation, fought mostly on Crimea.

The immediate pretext for the Crimean War was the Russian occupation of two Danubian principalities Wallachia and Moldavia. In January 1854 the British and French fleets demonstratively sailed into the Black Sea. Following a Russian rejection of the British ultimatum to withdraw Russian troops from the principalities (territory that is today’s Romania and Moldova), Great Britain and France declared war on Russia. In September 1854 almost one million Ottoman, French and British troops landed on Crimea and started a yearlong siege of the Russian stronghold Sevastopol. In January 1855 the Kingdom of Sardinia joined the coalition. The anti-Russian coalition suffered staggering losses of over 300 thousand dead soldiers, due mostly to disease. The Western powers and the Ottomans won the war against the Russian Army (which lost about 400 thousand soldiers) achieved the destruction of the Russian Black Sea Fleet and of the fortress Sevastopol, as well as the military neutralization of the Black Sea. Austria’s threat to join the coalition forced nevertheless the Russian government to withdraw its troops from the Danubian principalities. The Russian Empire lost its hegemonic role in the defunct

“Holy Alliance” but the Western powers failed, to dislodge Russia from Crimea. All of this happened in a geostrategic environment very different from the present one. Almost 160 years later no one in the West even thought of undertaking a similar operation against the Russian Federation.

The newest conflict in and over Crimea has developed since 1991 along the porous ethnic, linguistic and cultural line within a young successor state of the Soviet Union, other than the Russian Federation. In Ukraine this line has separated a majority within the titular nation, on the one hand, and a considerable part of the strong Russian-speaking minority, on the other hand. This “Russian” population has constituted however a strong local minority or a regional majority in parts of that successor state – in Eastern and Southern Ukraine and on Crimea. This particularity explains why the conflict in Ukraine bears resemblance with the Serbian armed secessions in Croatia and Bosnia & Herzegovina in 1991-1995. In two other ex-Soviet cases – in Abkhazia and Southern Ossetia – the political divide has separated a titular majority non-Russian nation (the Georgians) from two non-Russian minorities living in provinces bordering the Russian Federation, whose members were massively given Russian passports. In four out of the five cases considered, the presence of the Russian Armed Forces on the territory of a legally independent successor state offered not only psychological comfort but also, when needed or feared, physical protection to separatists. This protection allowed the parastates to carry out illegal referenda, to proclaim and subsequently defend the secession. In four cases, the separatists pleaded for and received the Russian Federation’s protection.

Crimea became legally an exception. Unlike in three other cases, it was promptly admitted and became reunited with the Russian Federation. This exception can be chiefly explained by Russia’s wider geostrategic interests. Also historically, for about 168 years, Crimea had been an integral part of imperial Russia and, after 1921, of the Russian Soviet Federation. Psychologically, Crimea is much closer to the hearts of many Russians and particularly of the Russian military than any of the four other ex-Soviet territories. Transnistria’s additional drawbacks are related to its territorial discontinuity with the Russian Federation, to the landlocked position and awkward configuration of its narrow strip of land on the left bank of the River Dnester. The main reasons for not also annexing Abkhazia and Southern Ossetia seem to be primarily diplomatic ones, the desire of the Russian government to mend its relations with Georgia and the fact that neither of the two populations belongs ethnically or culturally to the Russian diaspora.

The historic background of the conflict

Since antiquity and until 2014, the entire territory of Crimea or its parts were ruled by many other states and empires, by the Greeks, Bulgars, Scythians, Romans, Gots, Huns, Khazars, Kievan Rus, the Byzantine Empire, Venice, Genoa, Kipchaks, the Mongol Golden Horde, the Ottoman Empire, the Russian Empire, Soviet Russia, the Soviet Union, Germany, the Soviet Union again and Ukraine. In its long history, Crimea has only been an independent state for less than four decades.

The two leaders involved in the newest conflict over Crimea – Ukrainian President Petro Poroshenko and Russian President Vladimir Putin – both represent Slavic nations. However, the present dispute is about the territory of the peninsula bearing the name Krim or Krym, which in their closely related Eastern Slavic languages was derived from the Turkic word *qirim*. In the XIII century this name was given initially to the capital of a province ruled by the Tatar-Mongol Golden Horde. The more ancient Greek name of that land *Tauris/Taurica*, as well as the Hellenic names of Sevastopol, Simferopol, Feodosia and other towns remind of the most ancient recorded inhabitants of Crimea – the Tauris and the Greeks.

Crimea became a colony of the Russian Empire in the late XVIIIth century as a result of Russian victories in wars with the Ottoman Empire. After its outright annexation by Russia in April 1783 Crimea was given a new name – the Taurida governorate. To the official title of the Russian Empress Catherine the Second a new title was added – “Empress of Tauridian Hersonis”, with a new, Tauridian coat of arms. The renaming of the peninsula and of the main towns into former or entirely new Hellenic designations had an important political meaning. The eradication of the Tatar-Mongol, Ottoman and Islamic heritage expressed also symbolically a Christian *Reconquista* of the lands occupied by the Moslems. In this endeavour Russia was then supported by Austria. On her first and triumphant trip to Crimea in spring 1787 the German-born Catherine the Second was accompanied by the Austrian Emperor Joseph the Second. Giving the peninsula a Hellenic name expressed the Russian Empire’s intention of liberating all Greeks of Ottoman rule, of reconquering Constantinople (renamed by the Turks in 1930 into Istanbul) and restoring the Byzantine Empire with Catherine’s younger grandson, unaccidentally named by her Konstantin as Emperor. The new, additional imperial title reflected Catherine’s grand geopolitical objective of claiming for Russia the Byzantine heritage in the Balkans and Eastern Mediterranean.

The Russian conquest was followed by mass summary executions, the exodus and expulsion of Muslim Tatars and Turks, the demolition or conversion of most mosques and other Islamic monuments and the disbanding of all Islamic institutions. Numerous wars, the Russian imperial and later Soviet

rule have dramatically changed Crimea – demographically, culturally, economically and politically. In the XIXth and XXth centuries, the Russification of the Crimean population has been carried out through massive resettlement of ethnic Russians and of already Russified subjects from central and northern Russia, through public schools and administration, obligatory military service, Orthodox Christianization and later through Russian mass media controlled by the Soviet communist regime etc. By 1945 the entire Tatar, Greek and Bulgarian minorities were, often brutally, deported and Crimea's population almost fully Slavicized and mostly Russified. It is estimated that nearly a half of the deported Crimean Tatars died during and immediately following the deportation to Central Asia. Unlike other deported minorities, the Tatars were for several decades banned from Crimea. Although legally rehabilitated in 1967 and since December 1991 allowed to return to their homeland, they still have not been compensated for the losses of life and property.

The legal status of Crimea from 1917 to 2014

Since the collapse of the Russian Empire, two revolutions in 1917 and the end of the Russian Civil War, the official name and the legal status of the peninsula has changed many times. The Russian *Bosheviki* replaced many of the previously official imperial names of provinces and cities with new ones. As an expression of the new nationality policy and a friendly gesture towards Kemal Atatürk's Turkey, the previous official designation of the peninsula Taurida was replaced with a Turkic name, Krym. In October 1921, the Crimean Autonomous Soviet Socialist Republic was proclaimed as a unit of the Russian SFSR. The new name and autonomous status were related to the presence of the then still sizeable non-Russian minorities. In 1922, Crimea became incorporated into the Soviet Union and remained within the USSR until its dissolution in December 1991. The only exception was the period from late summer 1941 until spring 1944. Most of Crimea had been then occupied by the Third *Reich* and from September 1, 1942 the territory administered as the *Generalbezirk Krim* and *Teilbezirk Taurien*. In 1945, following the radical ethnic cleansing, Crimea was stripped of its pre-war autonomy status and became an ordinary *oblast* of the Russian SFSR.

In February 1954 the Praesidium of the Supreme Soviet of the USSR issued a decree transferring the Crimean *Oblast* from the Russian Soviet Federative Socialist Republic to the Ukrainian SSR. The transfer had been described by official communist propaganda as a symbolic brotherly gesture marking the 300th anniversary of Ukraine joining the Russian Empire. This momentous decree by the Presidium (and not a federal law and a constitutional amendment passed by the entire Supreme Soviet of the USSR) gave a

very dubious legal cover to a decision actually made by the Politburo of the Communist Party of the Soviet Union (CPSU). The transfer of Crimea was said to have been prompted by the need to bring from Ukraine a large labor force and also water for irrigation. The decree however clearly violated Art. 14 and 18 of the then valid "Stalin's" constitution of the Soviet Union, which required a formal agreement between Soviet Socialist Republics to border changes. The Supreme Soviet of the USSR (and not the Presidium) could only confirm such an agreement, but not by itself pass a federal law and a constitutional amendment to this effect. In the case of Crimea no such parliamentary procedure was initiated and duly carried out in the two parliaments, no relevant parliamentary sessions were held, no debates took place, no votes were taken and no agreement was adopted and signed. Moreover, the Crimean population was deprived of its right to give or deny its consent to the major status change. The transfer of Crimea to Ukraine was thus illegal even in Soviet terms, unconstitutional and clearly illegitimate.

The next status change of Crimea occurred during the process of dissolution of the Soviet Union in 1990-1991. After an all-Ukrainian referendum in February 1991, the Crimean *Oblast* was upgraded again to the status of an autonomous republic, this time within Ukraine. In summer 1991, an attempted coup against Michail Gorbachov took place in Crimea, where the then President of the Soviet Union was vacationing. The coup, its aftermath and the referendum on Ukraine's independence on December 2, 1991 actually sealed the fate of the USSR. At the latter referendum the population of the Autonomous Republic of Crimea was not consulted on whether it desired to remain in Ukraine after the dissolution of the USSR or alternatively to rejoin the Russian Federation. The Soviet Union was dissolved on December 8, 1991 at a meeting of the heads of the Russian Federation, Ukraine and Belarus. At that gathering in the hunting reserve Belovezhska Pushcha, the Russian leader Boris Yeltsin failed to request from his Ukrainian colleague, Leonid Kravchuk, Crimea's return to "mother" Russia.

On February 26, 1992, the Supreme Soviet of the Crimean ASSR, without the consent of Ukrainian authorities, changed the official name of the land into the Republic of Crimea. On May 5, 1992, the Crimean parliament proclaimed Crimea's independence and passed its first constitution. Under pressure from Kyiv the latter was amended on May 6, 1992 with a sentence on Crimea as part of Ukraine. On May 19, 1992, the proclamation of Crimean independence was annulled by the Ukrainian Supreme *Rada* (parliament). As a *quid pro quo* Kyiv agreed to strengthen Crimea's autonomous status. Exploiting these increased legal prerogatives, the Crimean parliament established on October 14, 1993 the post of President of Crimea and granted the Crimean Tatars regular representation in the consultative Council of Fourteen. On March 17, 1995, Ukrainian parliament annulled Crimea's constitution, removed President Yuriy Meshkov and abolished his office. The Presi-

dent was charged with anti-state activities and with promoting Crimea's secession from Ukraine and its integration with the Russian Federation.

Crimea's secession from Ukraine and its annexation by the Russian Federation

Since the breakup of the USSR, political tensions between the two neighbouring states – Ukraine and Russia – have continued on many issues. These included also those related to the status of Crimea, to the division of the Soviet Black Sea Fleet between the two states, to the basing rights of the Russian Black Sea Fleet in Sevastopol, to the Russian use of military facilities on Crimea, and to the number and status of the Russian military personnel on Ukrainian territory, etc. Since 1991, Moscow has covertly controlled and mostly restrained the actions of Russian separatists on Crimea considering friendly relations with Ukraine more important than the wishes of a majority among the Crimean Russians for reunification. Moscow has also maintained on Crimea a sizeable contingent of its own civilian (FSB) and military intelligence (GRU) agents.

Russian contingency plans for annexation of Crimea have likely been prepared and regularly updated since, at least, two decades ago. In June 1993 the Russian State *Duma* adopted a resolution designating Sevastopol as a Russian city. In 1996 a prominent Russian geostrategist, Sergei Karaganov, wrote about a possible disintegration of Ukraine and the absorption of its parts by Russia.¹ Yulia Tymoshenko, the former Prime Minister of Ukraine, publicly warned the West in 2007 of Russia's policy of destabilizing the Ukrainian government, particularly in Crimea.² In 2008, the Ukrainian Foreign Ministry protested against the mass distribution of Russian passports on Crimea as a "real problem" in conjunction with Russia's declared policy of possible military interventions to protect Russian citizens living abroad.³ In August 2009, anti-Ukrainian demonstrations broke out on Crimea calling on Russia to act in the same way as it did in Southern Ossetia and Abkhazia during the war with Georgia in 2008.

The decision to annex Crimea at an opportune moment was probably made in 2008, soon after NATO at its Bucharest summit promised Ukraine (and Georgia) future membership in the Alliance. After Victor Yanukovich was elected President of Ukraine the subsequent penetration of high governmental offices by Russian citizens, the increased financial dependence of Ukraine on

1 Karaganov, Sergei. *Russia and the Slav vicinity* in Baranovsky, V. (1997), p. 300.

2 *Foreign Affairs*, no. 3, 2007 and in *Rossia v globalnoy politike*, vol. 5, no. 3, 2007, pp. 104-105.

3 "Federal Law on the State Policy in Regard to the Fellow Citizens Residing Abroad" (1999).

Russia and the expanded cooperation between the two military-industrial complexes reduced the need for annexation. The situation changed abruptly on February 22, 2014 when President Yanukovich with a group of high Ukrainian officials closely connected to the Russian security services unexpectedly fled the capital and via Crimea to Russia. In violation of the procedure of impeachment stipulated in Art. 111 of the Ukrainian Constitution the Supreme Rada (parliament) swiftly dismissed President Yanukovich and appointed a temporary President. The state takeover by groups of anti-Russian nationalists, openly supported by the West and the general confusion offered an almost ideal opportunity for the Kremlin to carry out the latest version of its contingency plans for annexing Crimea.

These plans were exceptionally well executed on the military side and less so on the political side. Clashes between pro-Russian and pro-Ukrainian protesters broke out on February 26, 2014 in front of the parliament building in Simferopol. During these clashes and at other rallies, the pro-Russian protesters were demanding the secession from Ukraine and asking for assistance from Moscow. In the early hours of February 27, masked armed groups seized and locked up government buildings in Simferopol, including the building of the Supreme Council of Crimea. At a behind-doors emergency session of the Supreme Council, Sergey Aksyonov of the hitherto marginal Party of Russian Unity and himself a Russian from Moldova was appointed the new Prime Minister of Crimea. The Supreme Council also voted to hold a referendum on the status of Crimea. On February 28, 2014, a group of over 20 deputies submitted to the Speaker of the Russian State Duma a draft amendment to the constitutional law on admitting new subjects to the Russian Federation. The draft specifically justified the incorporation of parts of Ukraine into the Russian Federation on the grounds of alleged Ukrainian discrimination of national minorities. A day later, the *Qurultay* (Assembly) of the Crimean Tatars voted on the "Implementation of the Right of Crimean Tatar People to Self-Determination in Their Historical Territory-Crimea". With 212 votes for, one against and four abstained, it was decided to start political and legal procedures to restore the national-territorial autonomy of the Tatars on Crimea.

Launched into action on February 28, 2014 regular Russian forces, assisted by local "self-defense" militias swiftly seized the strategically important Perekop Isthmus, blocked or cut off most land, sea and air connections between Crimea and mainland Ukraine, took over all Crimean ports and airports, radio and TV stations, blocked and occupied all installations of the Ukrainian Army and Navy, and expropriated practically all of their stocks of arms and ammunition. They also assisted and protected unlawful actions by Russian separatists and thus enabled Crimea's amputation from the Republic of Ukraine. The military take-over of Crimea was obviously well-prepared, rehearsed in advance and professionally executed. Assembled for this opera-

tion were about 2,000 naval infantrymen (marines), stationed in and around Sevastopol, about 7,000 special troops brought to Crimea in early March mostly by air as well as about 15,000 troops transported by ferries to Kerch across the straits. These additional units came mainly from the Russian Southern Military District. At the time of occupation, the Russian operational headquarters, probably located in Rostov, had on its disposal on Crimea about 30,000 troops.⁴ The forces participating in the Crimean operation were much better organized, trained and armed than the Russian units engaged in the war with Georgia were in 2008. This time they also used a novel tactic with an emphasis on the economy of effort. The Russian command actively engaged fewer than 10,000 assault troops, mostly on wheeled BTR-80 armoured personnel carriers. The masked “green men” were a hybrid between regular infantry and anti-terrorist police units having a secret chain of command and bearing no insignia or visible rank on their combat fatigues. All this was clearly designed to conceal the state identity of the invading force.

The easy success of the three week-long operation was to a large extent facilitated by several factors. The takeover was warmly greeted by a good part of the Crimean population. The Russian marines were already legally stationed at Sevastopol, could well in advance reconnoitre the field and acted unopposed by Ukrainian forces. The Ukrainian security agencies had totally failed to detect these preparations, to warn the Kyiv authorities and to take precautionary measures. The short distances to the most important strategic locations on Crimea, including Simferopol international airport, allowed for the quick insertion of air – transported special troops from Russia and easy acquisition of all targets. Ukrainian military personnel stationed in Crimea were not given orders to resist with arms and thus all 190 military installations and practically all weapons were simply surrendered. About 22,000 Ukrainian military personnel capitulated without a shot fired. Moreover, a majority of them switched their loyalty. Most of the Ukrainian Navy was also captured by the Russian military without resistance. The Ukrainian commanding officers did not even try to sail off with their ships and crews in order to reach Ukrainian mainland ports. Only a few of the serviceable aircraft of the Ukrainian Navy escaped the capture. The Crimean police personnel either failed to act or cooperated with the Russian Special Forces and Crimean separatists. Although the Russian Armed Forces *de facto* occupied Crimea, they did not establish a military occupation regime. International law namely prohibits an occupying power to create another state on the occupied territory or to annex it.

The referendum on Crimea’s reuniting with the Russian Federation was called on February 27, 2014, on too short a notice. The time pressure very probably did not allow for and, more importantly, the Crimean secessionist

4 Hannes, Adomeit (2014), p. 7.

authorities were not interested in updating the voters' registers and in preventing multiple voting, obviously by the proponents of secession. The referendum on March 16, 2014 reportedly passed peacefully and orderly but in several important respects did not conform to high democratic standards. The ballot contained two questions and only one positive response was considered valid:

1. Do you support rejoining Crimea with Russia as a subject of the Russian Federation?
2. Do you support restoration of the 1992 Constitution of the Republic of Crimea and Crimea's status as a part of Ukraine?

The ballot omitted two other possible choices – remaining part of Ukraine under the current constitutional structure or Crimea's independent statehood. The time shortage did not allow for a real and substantive public debate on such a momentous issue. The referendum was held under the irregular conditions of Russian military occupation. The presence in public places of armed local Russian irregulars, of Russian Cossacks and even Serbian "Chetniks", as well as of masked "little green men" undoubtedly belonging to the Russian Armed Forces, certainly had an intimidating effect on the opponents of Crimea's secession.

According to the Crimean authorities, 81.36 percent of the registered voters took part in Crimea's referendum and 96.77 percent of them voted for its separation from Ukraine and for reuniting with Russia. The official figures of the voters' participation and on the approval rate however could not be verified by impartial international observers and were probably artificially inflated in order to legitimize Crimea's incorporation into the Russian Federation. The OSCE Chairperson-in-Office, Didier Burkhalter, did not accept an invitation by Crimea's authorities to send ODIHR observers, citing the unconstitutional nature of the referendum. In addition, the invitation did not come from an OSCE participating state. Individually and selectively invited European observers stated that the referendum was carried out without violence and visible irregularities. The representatives of the Crimean Tatars denied the official results reflecting the position of a presumed majority among Crimea's indigenous minority population who opposed the separation from Ukraine and boycotted the referendum. The main reason for this attitude was the painful collective memory of Russian colonialism and of the terror, deportation, harsh exile and collective discrimination in the XXth century, which were for many decades carried out by the Russian-speaking Soviet authorities. A good number of Crimean Ukrainians probably departed before the vote, abstained, or voted against the secession. The Ukrainian authorities refused to recognize the legality of the referendum and its outcome on constitutional grounds. This opinion was shared by the Council of Europe's Venice Commission and by a number of EU and NATO member states.

Despite numerous shortcomings of the referendum, it seems reasonable to assume that the Russian-speaking majority among the Crimean population generally favoured Crimea's secession from Ukraine and its rejoining Russia. Their attitudes probably reflected the deep dissatisfaction with the dismal state of economic and political affairs in Ukraine and with the widespread incompetence and rampant corruption in Kyiv and also in Eastern Ukraine. In these respects the feelings of the Crimean Russian speakers largely coincided with the feelings of many ethnic Ukrainians, and also those of the *Maidan* protesters. The very unwise bill - hastily passed by the Ukrainian parliament - abolishing the official status of the Russian language was also aptly used by the separatists and Russian mass media to scare off Russian speakers in Ukraine (N.B. The law was vetoed by the interim President and never went into effect). Most Russians on Crimea apparently did not want any longer to be a national minority in Ukraine, forced to learn and use another official language. Moreover, they were promised by the separatists, and indeed expected, a tangible improvement of their standard of living, including, at least, twice as high Russian wages and retirement benefits, etc. These factors help to explain to a great extent the outcome of Crimea's referendum.

On March 17, 2014, Crimea declared its independence and asked the Russian Federation to join it. The Sevastopol City Council requested the port's separate admission as a federal city. On March 18, 2014, a treaty on incorporating Crimea and Sevastopol was signed in Moscow. In only five days the "Constitutional Law on admitting to the Russian Federation the Republic of Crimea and Establishing within the Russian Federation the New Constituent Entities the Republic of Crimea and the City of Federal Importance Sevastopol" was quickly railroaded through the Russian Federal Assembly, signed by the Russian President and entered into force.

The Ukrainian government accused the Russian Federation of committing a blatant aggression and of violating the UN Charter, Helsinki Final Act and numerous international treaties and agreements. On the other hand, President Vladimir Putin used the right of the Crimean people to self-determination in the form of secession as the chief argument to justify and legitimize the annexation.⁵ Russia's much stronger historic claim to Crimea was also stated. Russia conquered Crimea and *de facto* possessed it much longer than Ukraine (for around 168 years vs. 60 years). In his Presidential address to the Federal Assembly on December 4, 2014, Vladimir Putin stressed the strategic importance of the peninsula also as "the spiritual source" of the Russian nation and state. He added a religious argument erroneously claiming that Grand Prince Vladimir of Kyiv was baptized on Crimea. According to V. Putin, Crimea has had "invaluable civilizational and even sacral importance for

5 N.B. Art. 5 of the Russian Constitution contains a provision for the right of the peoples to self-determination but, likewise, does not confer to them the right to secede from the Russian Federation.

Russia, like the Temple Mount in Jerusalem for the followers of Islam and Judaism".⁶ Moreover, the reunification in 2014 was said to undo the unconstitutional and unjust separation of Crimea from Russia sixty years earlier and was achieved without known victims.

In the framework of Ukrainian constitutional and legal order the holding of the referendum on March 16, 2014 and the declaration of independence were clearly illegal and unconstitutional. Article 73 of the Constitution of Ukraine namely effectively bars secessions by prescribing: "Alterations to the territory of Ukraine shall be resolved exclusively by the all-Ukrainian referendum". However, most declarations of independence have been unconstitutional, including the declaration of USA in 1776 and, more recently, Kosovo's declaration in 2008. The International Court of Justice, in its opinion issued in July 2013, concluded that the Kosovo declaration did not violate the norms of international public law.

President Vladimir Putin and the leaders of Russian separatists in Crimea used the Kosovo example to justify their actions. There have been indeed several similarities between the Kosovo and Crimea cases. A forceful separation from Serbia and Ukraine were achieved through military interventions unauthorized by the UN Security Council and thus violated international law. Russian officials and propaganda have however consistently omitted very important differences. The Russian-speaking population of Crimea has not experienced anything similar to the protracted repression by central authorities, massive and grave violations of human rights and fundamental freedoms, the *de facto* abolition of Crimea's autonomous status, massive discrimination and firing of Russians from the public sector, mass displacement and expulsion of several hundred thousand Russians and several thousand deaths. Prior to its separation from Ukraine, Crimea and the ethnic Russians, as no other Russian minority in ex-Soviet republics, had enjoyed in Ukraine very considerable autonomy and protection of human rights and fundamental freedoms. Although there was no need, unlike in Kosovo, to apply on humanitarian grounds the "responsibility to protect", the majority among the population of the Autonomous Republic of Crimea nevertheless claimed and, with decisive outside military assistance realized its right to self-determination. Whether it was entitled to exercise this right is a debatable legal proposition.⁷ This right was flatly denied to it by the Soviet Communist authorities in 1954 and ignored by the Russian and Ukrainian leaders in 1991. Moreover, the Russian-speaking majority in Crimea has relatively peacefully expressed and exercised this right, in conformity with principle 8 of the Helsinki Final Act. The two sizeable minority communities (Ukrainians and Tatars) apparently

6 Presidential Address to the Federal Assembly, <http://eng.kremlin.ru/transcripts/23341> (12-12-14).

7 Burke-White, William. Crimea and the International Legal Order. In *Survival*, vol. 56, no. 4, August-September 2014, pp. 65-80.

acquiesced to the desire of the Russian-speaking majority. These facts confer a measure of legitimacy to Crimea's secession and to its reunification with the Russian Federation.

Crimea, the war in mainland Ukraine and the international community

The annexation of Crimea encouraged the Russian-speaking separatists in Eastern and Southern Ukraine who apparently hoped that Moscow will repeat the same scenario. The mass unrest, anti-Kyiv demonstrations, tearing down Ukrainian state symbols and hoisting up Russian national flags, breaking-in and occupying numerous official buildings took place in April 2014 in a number of Ukrainian cities. In Kharkov, Donetsk, Lugansk and Odessa "People's Republics" were proclaimed. Numerous Crimean Russians have presumably also participated in these events.

There have been however considerable differences between Crimea and "Novorossia" as the South Eastern part of the Republic of Ukraine used to be called by the Russian imperial authorities in the past and recently again in the Russian mass media and occasionally also by Russian politicians. "Novorossia" and particularly the area of Donbass have been much more closely economically and energy-wise connected with and more important to the Russian Federation than Crimea. "Novorossia" contains a somewhat lower percentage of ethnic Russians but together with numerous other Russian-speakers (including many ethnic Ukrainians) they constitute a strong regional majority. Unlike Crimea "Novorossia" has been legally part of Ukraine since 1921, with only one exception during the Second World War. The flare-up of unrest and subsequently of violence in the Donbass area had however a somewhat different origin. It expressed regional grievances against Kyiv centralism, the defense of Russian language rights which were attacked by Ukrainian nationalists and the strong opposition to the "fascists" who "staged a coup" in the capital. The unrest in "Novorossia" has quickly deteriorated from peaceful demonstrations to seizures of state institutions and clashes with the Ukrainian security forces. In a stark contrast with the development in Crimea the unrest finally degenerated into a full-fledged civil war in which the insurgents had enjoyed the critically needed assistance from across the long and unmarked border with the Russian Federation. In the war heavy conventional weapons (tanks, armoured personnel carriers, artillery and rockets) had been used by both sides, while helicopters and fixed-wing aircraft by the Ukrainian Army only. Undiscriminate massive shelling and rocket attacks of Donetsk, other towns and settlements caused numerous deaths also among the civilian population. These attacks constituted grave violations of Interna-

tional humanitarian law, initially only and later more often by the Ukrainian side than by the insurgents.

The conflict over Crimea and the war in mainland Ukraine have developed in an international environment which, apart from the two directly involved states, included other important actors. These have been the European Union, NATO, OSCE, UN, USA, Germany, France, Poland et.al. The Russian leadership has for many years openly opposed Ukraine's integration into the economic, and hence also political, "West" and in particular the possibility of its NATO membership. This Russian position has been well known but consistently ignored by Western leaders who insisted on every European state's legal right to freely decide on its association with other states, including on membership either in EU or NATO. The high representatives of the Soviet Union and of its legal successor – the Russian Federation – officially recognized this right of all European states in several documents, including the "Charter of Paris for a new Europe" (1990). However, in practice the implementation of this abstract legal right depends on and is conditioned by a number of internal political and wider geopolitical, also constraining, considerations.

In his keynote speech at a joint session of the two chambers of the Russian parliament on March 18, 2014, President Vladimir Putin clearly stated the geopolitical rationale for the annexation of Crimea. NATO's presence in close proximity to Russia's Southern borders, "directly in front of the Russian home", "on Russia's historic territories" remains utterly unacceptable to President Putin and to the Russian elite. The sheer possibility of Ukraine's membership in NATO and of Crimea's and Sevastopol's inclusion into the North Atlantic Treaty area have been viewed by Putin as an acute threat to the security of Southern Russia. The NATO plans to place US antiballistic missiles in Romania and Bulgaria have accentuated the threat perception. In order to not be "lost in the near future", Crimea needed to be under "a strong and steady sovereignty..." which "could be only Russian".⁸ President Vladimir Putin's statement expressed the primary motivation of the Russian leadership – the annexation prevented Crimea's conceivable inclusion into the North Atlantic Treaty area and Sevastopol's becoming a NATO naval base.

The Russian actions in 2014 related to Ukraine and Crimea were thus largely – if not primarily – provoked by the EU and NATO encroachment into the ex-Soviet space. To a considerable but critical extent, Crimea's straightforward annexation was Moscow's forceful reaction to the intention of the US administration under George W. Bush to bring Ukraine (and Georgia) into NATO. The key European members of NATO did not support the US proposal to issue a straightforward invitation to Ukraine but as a compromise agreed to include the promise of membership in the conclusions of

8 Kremlin. *Address by President of the Russian Federation*, <http://eng.kremlin.ru/news/6889> (18-3-14).

the NATO Bucharest summit in 2008. This promise was not preceded by a careful examination of its medium and long-term security and political consequences and of the Alliance's ability to bear their burden. This unwise decision, despite having neither a date of admission nor the inclusion into the Membership Action Plan, was repeated in NATO's later documents. Although the promise did not entail an Art. 5 guarantee, it morally implied that the states promised membership would not be left "cold in the rain" if their territorial integrity and sovereignty were to be grossly violated. Yet, Ukraine in 2014 (and earlier Georgia in 2008) were in fact effectively punished by the Russian Federation while NATO basically stood by. These facts certainly has not increased the Alliance's credibility. The "misguided strategy" by the USA and NATO has been to a large extent responsible for the crisis in and partial disintegration of Ukraine.⁹ In September 2014 NATO indirectly admitted the mistake when the Wales Summit Declaration did not repeat the promise to Ukraine.

Moscow's action on Crimea expressed its defiance of NATO's further enlargement into Russia's backyard. It could be more generally understood as its renunciation of the balance of power in the Euro-Atlantic area formed after the end of the "Cold War" and as a demand for a redefinition of legitimate "zones of interest" in Europe. It could be also taken as a stern warning to other ex-Soviet republics to behave, for instance, to Kazakhstan and Azerbaijan.

The occupation and annexation of Crimea has generated a vivid reaction in the international community, in the form of diplomatic protests, declarations and resolutions passed by international organizations among other things. On March 15, 2014 the UN Security Council failed to adopt a draft resolution, sponsored by the United States, which urged the UN members not to recognize the results of the Crimean referendum. Thirteen of the Council's 15 members voted in favour, Russia voted against the draft while China abstained. On March 27, 2014 the UN General Assembly however adopted a resolution on Ukraine's territorial integrity. The resolution condemned the annexation of Crimea, declared the referendum "non-valid" and appealed to the international community not to recognize changes in the status of Crimea. A majority of one hundred UN members supported the resolution while 11 voted against it. The vote showed the Russian Federation's considerable diplomatic isolation. Understanding and support for its action were expressed by states such as North Sudan, Syria, Zimbabwe, North Korea and by four Latin American countries. Among the ex-Soviet republics, only states highly dependent on Russia, namely Armenia and Belarus, voted with in Russia's favour, while Ukraine and Georgia understandably condemned the Russian

9 Mearsheimer, John J. Why the Ukraine Crisis is the West's Fault. In *Foreign Affairs*, September-October, 2014, <http://www.foreignaffairs.com/articles/141769/john-j-mearsheimer/why-the-ukraine-crisis-is-the-west-s-fault> (12-9-14).

action. The annexation put a large group of 58 states (including the BRICS members China, India, Brazil and South Africa) into a delicate situation. While supporting the principle of territorial integrity of member states they for various reasons did not want to condemn the Russian Federation and decided to abstain.

Active condemnation of Russia's action was expressed in the strongest terms by a number of EU and NATO members, including those from Eastern Europe. It was shared also by many non-aligned states who, as a matter of principle, oppose any infringement on the territorial integrity of member states. On April 1, 2014, the foreign ministers of NATO member states condemned the annexation of Crimea and qualified it as illegal and illegitimate. They also approved a number of measures negatively affecting NATO's relations with the Russian Federation. On September 5, 2014, leaders at the NATO Summit in Wales called on the Russian Federation to "reverse" the annexation of Crimea and declared the suspension of all practical, civilian and military cooperation and the freezing of the activities of the bilateral forum, the NATO-Russian Council. The ministers also decided to assist Ukraine with advisory teams, to support Ukraine's defence reforms and to boost NATO's collective defence posture by demonstrative deployments of its assets in land, air and sea configurations within the North Atlantic treaty area geographically close to Ukraine and the Russian Federation. The United States and later the European Union added to these measures economic and political sanctions targeting among others, a group of prominent Russian and Crimean personalities.

The conflict over Crimea and the related conflict in South Eastern Ukraine raised the fears of escalation to a hot war between Ukraine and the Russian Federation. The shooting down, of the Malaysia Airlines flight 017 on July 17, 2014, which killed three hundred innocent civilians, further sharpened the political confrontation between EU, USA and NATO, on the one hand, and the Russian Federation, on the other. The confrontation has worsened the general political climate in the Euro-Atlantic area. Some aspects of the confrontation and of the Western sanctions bore resemblance with the "Cold War" period. The conflict over Crimea and its further ramifications have had a number of other negative international effects. The substantive breach by the Russian Federation of its obligations to Ukraine under the Budapest Memorandum (1994) certainly weakened the nuclear non-proliferation regime. The conflict also brought the US-Russia talks on anti-ballistic defence and on other strategic issues to an end, although they were already in deep troubles. Russian non-compliance with its obligations of notification and the international observation of large movements of troops in border areas harmed the system of Confidence and Security-Building Measures (CSBM) under the OSCE Vienna Documents (1990, 1994). The Crimean conflict heightened the sense of insecurity in states bordering on the Russian Federa-

tion, particularly those having within their borders Russian minorities. These states are most concerned with the possible resurrection of Russian neoimperialism, while the former Soviet republics with a new, narrower version of L. Brezhnev's doctrine of "limited sovereignty". All this resulted in increased defense appropriations and the reintroduction of military draft in Lithuania. The Crimean affair has also reduced the possibility of de-escalation in several "frozen" conflicts on the ex-Soviet periphery, e.g., over Transnistria.

The application of EU and US sanctions raised the question of their objectives, effectiveness and consequences. The true objectives of the sanctions have been never clearly stated. These could be: a) a restitution of Crimea to Ukraine, b) the termination of Moscow's support to the separatists in Eastern Ukraine and exerting pressure on them to desist and return to Kyiv's rule, c) to force Moscow to agree to further EU's and NATO's enlargement into the post-Soviet space, d) to effect a regime change in the Kremlin and "shackle" the disobedient Russian "bear".

President Vladimir Putin apparently firmly believes in the latter.¹⁰ Washington's hostility to Russia has been evident, according to him, already earlier and Crimea and the Ukrainian crisis were used only as a pretext to mobilize its European allies for an anti-Russian action. It is an irony that US initiated and has pressed for sanctions against Russia while having openly admitted the failure of its own sanctions applied for 50 years against an incomparably smaller, weaker and much more vulnerable state – Cuba. The war of sanctions with the Russian Federation economically harm also Europe, but not US. Most importantly they are not likely to achieve any of the above-stated objectives. This is certainly true of the prohibition of military exports due to the near self-sufficiency in arms of the second largest exporter of weapons world-wide. In addition this ban is to be applied to new contracts only. It is clear, that no kind and no intensity of international sanctions will ever return Crimea to Ukraine. In this particular sense, the application of economic sanctions by the European Union is pointless. They have had no educational or deterrent effect. Moscow politically cannot and will not allow a military defeat of the separatists – turned – autonomists in Eastern Ukraine. Generally, sanctions often provide results contrary to those intended. The war of sanctions already strengthened the autocratic elements of Vladimir Putin's regime and slowed down or stopped altogether internal political and economic reforms in Russia favoured by the West. The absence, so far, of a direct and massive military intervention by the Russian Army could be not attributed to the Western sanctions. The Crimean scenario has not been repeated for a number of other reasons. An open and massive Russian invasion would have caused an all-out war between Russia and Ukraine, with catastrophic consequences. Although quickly victorious on the battlefield, the Russian

10 News conference of Vladimir Putin, December 18, 2014.

forces would face the prospect of waging for many years a bloody anti-guerilla warfare, similar to that in Western Ukraine in 1945-1949. The human, political and economic costs of a massive invasion and of the protracted occupation of Eastern Ukraine would far outweigh any possible gains for Russia.

By February 15, 2015 the civil war in Ukraine affected more than five million of its inhabitants, caused about 6.700 dead (recorded by the UN and OSCE plus probably at least eight thousand unrecorded deaths), more than eleven thousand wounded, over a million and a half internally displaced persons and refugees and a huge economic damage. An agreement reached in Minsk by the highest representatives of the Russian Federation, Germany, France and Ukraine allowed for a ceasefire starting on February 18, 2015, the removal of heavily weapons from a wide tampon zone, exchange of prisoners and other measures of normalization. An associated protocol signed separately by the former President L. Kuchma, Russian Ambassador in Ukraine, two leaders of the insurgents and an OSCE mediator obliged Ukraine to implement by the end of 2015 a constitutional reform allowing for autonomy within Ukraine of parts of the Donetsk and Lugansk provinces. New local election are to be held according to Ukrainian law. If these and other measures are implemented. Ukraine would eventually reinstate its control over the entire interstate border with the Russian Federation etc. The very different course of events in territorially undefined "Novorossia" has led thus, so far, to an outcome of the conflict quite different than that in Crimea.

There have been many commentaries and a number of proposals on how to deal with the conflict related to Crimea and Ukraine. Some commentaries openly try to revive the spirit of the "Cold War" depicting President Putin as a new Hitler and presenting Russia's behaviour as a threat to the very foundations of international security, international law and even to the liberal West. More realistic commentaries, on the other hand, admit the mistake made by NATO and propose that the Alliance assures Moscow that it will not draw Ukraine into its membership (H. Kissinger, Z. Brzezinski). Some proposals demand that Russia, in exchange for normalisation of relations, recognizes Ukraine's sovereignty over autonomous Crimea (i.a. H. Kissinger). Another suggestion was made by M. O'Hanlon and J. Shapiro requesting a repeated and binding referendum on Crimea, this time under international supervision.¹¹ The same authors propose as other conditions for gradual lifting of sanctions: a verifiable removal of Russian "volunteers" from Eastern Ukraine, Russia's guarantees of mainland Ukraine's territorial integrity, the

11 N.B. A representative public opinion poll conducted by OSCE could be more palatable to Moscow. O'Hanlon, Michael, Shapiro, Jeremy. *Crafting a win-win-win for Russia, Ukraine and the West*. Washington Post. http://www.washingtonpost.com/opinions/crafting-a-win-win-win-for-russia-ukraine-and-the-west/2014/12/05/727d6c92-7be1-11e4-9a27-6fdb6c12bf8_story.html (7-1-15).

termination of NATO's enlargement and making Ukraine's relations with EU compatible with its membership in the Eurasian Economic Union.

Crimea covers 26,200 square kilometres and had in 2007 about 2,3 million inhabitants. In terms of its territory and/or population, Crimea is thus larger than each of the five small members of the European Union (Luxemburg, Estonia, Slovenia, Cyprus and Malta), not to mention the five internationally recognized mini-states (Liechtenstein, Monaco, San Marino, Holy See-Vatican, Andorra) and the five unrecognized or less than universally recognized but *de facto* existing states or state-like entities in Europe. According to the last Ukrainian census held in 2001, 58 percent of Crimea's population were ethnic Russians, 24 percent ethnic Ukrainians and about 12 percent Crimean Tatars. The actual number and percentage of Russians were probably higher than was stated in the official Ukrainian count. There is no current data on the additional influx of Russian military, security and civilian personnel since March 2014 and on a considerable number of inhabitants (mostly Ukrainians and Tatars) who have reportedly left Crimea.

The Republic of Crimea and the federal city Sevastopol are today *de facto* parts of the Russian Federation constituting the Crimean Federal District and part of Russia's Southern Military District. On April 11, 2014 a new constitution was adopted by the Republic of Crimea. A public opinion poll conducted in Crimea in January 2015 by a Canadian Berta Communication Company showed that a vast majority of respondents supported the reunification with the Russian Federation. The violence and destruction in the Donbass area have strongly confirmed this decision of Crimea Russians. Most of the international community, however, does not recognize the annexation by the Russian Federation and considers the Autonomous Republic of Crimea as still belonging to Ukraine. On April 15, 2014, the Ukrainian parliament declared Crimea and Sevastopol "occupied territories". Dmitri Medvedev, Russian Prime Minister, on the other hand, declared that the present status of Crimea is a non-negotiable "closed chapter".¹² The political and legal stand-off between Ukraine and the Russian Federation will undoubtedly continue indefinitely having created a new and long lasting "frozen" conflict in Europe.

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